SIGNIFICANT VIEWPOINTS

BROADCASTERS DISCUSS BALANCE

Proceedings of a symposium convened by the
Broadcasting Standards Authority
Auckland, May 2006

BSA
Broadcasting Standards Authority
Te Mana Whanonga Kaipāho

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Significant Viewpoints: Broadcasters Discuss Balance

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KUPU WHAKATAKI

I te marama o Mei 2006, ka whakahaeretia e te Mana Whanonga Kaipāho tētahi hui taumata i te taha o ētahi o ngā kaihautū matua mō te pānui pitopito kōrero, ngā kaiwhakaako whare wānanga mō te taha pāpāho, me te hunga hanga whakaaturanga, hei matapaki i te paerewa mō te tūtika i roto i te rārangi tikanga mahi mō te mahi pāho. I takea mai ngā kupu o te paerewa i te Ture Pāho o te tau 1989.

Ko te 'tūtika' tētahi mātāpono o te kawe kōrero e tautohe nuitia ana, engari he iti ōna whakamārama. Kei te hāngai tonu ki te ao pāho o nāianei – kua tahangia noatia atu rānei i roto i ngā huringa o te rautau 21?

Kei tēnei pukapuka ngā tuhinga mō ngā tautohe o taua rā.

Nā Hon Steve Maharey, te Minita mō ngā Take Pāpāho i wāhi ngā kōrero. I kōrero ia 'hei kaiwhakarongo, hei kaipānui i ngā mahi pāpāho', ā, ki a ia, i tēnei ao e ranea nei ngā putanga pāpāho, te tikanga pea kia nui tonu ngā whakaritenga i roto i ngā rā e heke mai nei, kaua kē ngā whakaritenga tiaki i te iwi e whiua ki tahaki.

Nā Joanne Morris, Tumuaki o te BSA, i kauwhau mō ngā motika o ngā tāngata o ngā whenua manapori, kia whāngaia ki ngā meka me ngā kōrero pono e te hunga pāpāho. Ki a ia, mā te noho mai o te paerewa tūtika ka kitea ngā āhuatanga o te ao i runga i te 'titiro a Matawhānui', otirā, kāore pea e tino pono ngā kōrero e ahu mai ana i te waha kotahi anake.

Nā Paul Norris, Tumuaki o te New Zealand Broadcasting School, te kī, he ariā rehurehu noa te paerewa tūtika ki te whakamārama, ā, kei te rerekē haere nga whakaaro o te iwi nui tonu mō ngā paerewa, kei te rerekē haere pea i runga anō i ngā huringa o te wā te ao whakawhiti kōrero, me ōna taputapu hou. Me waiho pea te tūtika, me whakaaroaro tātou kia whakamanaia te ariā o te 'tū ki waho i te wā e tika ana,' kia rite ki Ingarangi?

I noho ētahi rōpū kōrero e toru ki te whakawhitiwhiti kōrero mō te paerewa mō te tūtika, tae atu ki: 'te wā e noho nei tātou' 'ngā tino take e noho nei hei kaupapa matua ki te iwi tūmatanui' ā, mehemea he 'kaupapa Pākehā' te tūtika ki te iwi Māori.

Nā John Sneyd, te Kaiwhakahaere Whakapae a te BSA, i wetewete ngā whakatau a te BSA mō te tekau tau, mō te paerewa tūtika. Ki a ia, ahakoa he aha te take, mehemea he kaupapa e pā ana ki te tūtika, i noho te BSA ki te whakatau tikanga mō te whakaaro 'whai mana', ā, i muri ki te whakatau mehemea aua whakaaro whai mana i kawea i runga i te pono me te tika ki te kaimātakitaki, ki te kaiwhakarongo rānei.

I te wāhanga whakamutunga, ka noho ngā mema o te BSA rātou ko Paul Norris ki te whiriwhiri i ngā kaupapa i whakaarahia i te roanga o te rā.

Ko tō mātou tūmanako kia whai take ēnei 'whakaaro whai mana' i tēnei pukapuka ki a koutou ngā kaipānui e hiahia ana ki te whai i ngā whakawhitinga whakaaro mō ngā paerewa pāho. Ka nui rā ā mātou mihi ki te hunga katoa i whai wāhi mai, mō ā rātou kōrero hōhonu.

Te Mana Whanonga Kaipāho
Nōema 2006

FOREWORD

In May 2006, the BSA held a symposium with many of New Zealand's leading broadcast news executives, media academics, and programme makers, to discuss the balance standard in the broadcasting codes of practice. The wording of the standard is derived from the Broadcasting Act 1989.

'Balance' is a journalistic principle often debated but rarely defined. Is it still relevant to broadcasting today, or has it become outmoded in the 21st century?

This publication is a record of the day's debates.

The opening address was by Hon Steve Maharey, Minister of Broadcasting. He spoke as a 'consumer of media', and argued that in an era of media 'plenty' the need for regulation to hold the media to account may grow, not lessen.

Joanne Morris, Chair of the BSA, spoke of the rights of citizens in democratic societies to be told the facts by their media. In her view, the balance standard ensures that audiences are given 'the bigger picture', for without the bigger picture, information from a single source can be misleading.

Paul Norris, Head of the New Zealand Broadcasting School, argued that the balance standard is an ill-defined concept, and that society's expectations of broadcasting standards may be changing alongside the rapid technological advances being made. Instead of balance, should we consider adopting the concept of 'due impartiality' as the English have?

Three panels hotly debated different aspects of the balance standard including: 'the period of current interest', 'controversial issues of public importance', and whether, for Māori, balance is a 'Pākehā' concept.

Analysis of ten years of BSA decisions about the balance standard was provided by John Sneyd, the BSA Complaints Manager. He noted that

in every case where balance was required, the BSA had to make value judgements about what constituted a 'significant' perspective, and then decide whether the significant perspectives had been reasonably and fairly conveyed to the viewer or listener.

In the final session, a panel of BSA board members and Paul Norris reflected on the issues raised during the course of the day.

We trust that the 'significant points of view' in this publication will be of use to readers interested in understanding broadcasting standards debates. We warmly thank all of the participants for their thought-provoking contributions.

Broadcasting Standards Authority
November 2006

Standard 4 Balance (Free to Air Television Code)

In the preparation and presentation of news, current affairs and factual programmes, broadcasters are responsible for maintaining standards consistent with the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guidelines

4a Programmes which deal with political matters, current affairs, and questions of a controversial nature, must show balance and impartiality.

4b No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcasters should aim to present all significant sides in as fair a way as possible, it being acknowledged that this can be done only by judging each case on its merits.

4c Factual programmes, and programmes shown which approach a topic from a particular or personal perspective (for example, authorial documentaries and those shown on access television), may not be required to observe to the letter the requirements of standard 4.

Principle 4 Balance (Radio Code)

In programmes and their presentation, broadcasters are required to maintain standards consistent with the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guidelines

4a Broadcasters will respect the rights of individuals to express their own opinions.

4b Broadcasters may have regard, when ensuring that programmes comply with principle 4, to the following matters:

(i) An appropriate introduction to the programme; and

(ii) Any reasonable on-air opportunity for listeners to ask questions or present rebuttal within the period of current interest. Broadcasters may have regard to the views expressed by other broadcasters or in the media which listeners could reasonably be expected to be aware of.

Standard P6 Balance (Pay TV Code)

News and current affairs content dealing with controversial issues of public importance should be balanced, with significant sides to these issues presented in as fair a way as possible.

Guidelines

(a) Factual content which clearly approaches such issues from a particular perspective may not be required to be balanced but should be fair in accordance with standard p7.

(b) No set formula can be advanced for the allocation of time to interested parties on controversial issues.

BALANCE IN AN UNBALANCED WORLD

Hon Steve Maharey, **Minister of Broadcasting**

Thank you, Joanne, and welcome to what I hope will be a stimulating and useful day.

The origin of this symposium – a word the ancient Greeks used to describe a drinking party with intellectual conversation, music and a bit of bacchanalia – lies with the need to explain the role of the Broadcasting Standards Authority in a time of change.

The BSA was established at a time when broadcasting was deregulated and there were relatively few outlets for radio and television. Our discussion takes place today in the midst of the long promised explosion of media, old and new.

Maintaining standards in such an environment is, to say the least, a challenge.

In the context of the generally shared view that the world is moving into an age of audience fragmentation, perhaps even individualisation, the concept of regulating standards is seen by some to be impossible. Others might add that regulation is unnecessary.

The BSA is rethinking its role as it applies to all broadcast media – but today we focus on one aspect of its regulatory role: 'balance'.

As you will be aware, the Broadcasting Act 1989 requires programmes to be balanced. This means there is a responsibility to ensure that when 'controversial issues of public importance are discussed … significant points of view' are aired 'either in the same programme or in other programmes within the same period of current interest'.

The question being posed today asks us to consider whether or not balance is still a relevant concept and, if so, how it can best be applied.

I am aware that the day will be filled with the views of such people as Paul Norris, Mark Sainsbury, Bill Ralston, Willie Jackson, and Bill Francis. In this company I am reluctant to say anything that might be interpreted as the amateur telling the experts what to think. I will also try to avoid any arguments, given, as Mark Twain advised, that it is not good practice to earn the displeasure of people who order their ink by the truckload!

To help avoid this possibility, I want to address you from the point of view of a consumer of media. This is, after all, the reason for concern about standards. Governments all over the world assume that the people they represent care about standards – including balance. As a result legislation is passed, guidelines are written, agencies are established and rulings are made.

So let me make the following remarks on behalf of consumers.

Over a couple of decades I have had the opportunity to talk with many people about the way they perceive the treatment of public issues by the media.

If they are in the story, they want the media to present their version of events. They accuse the media of bias or lack of balance when this does not happen.

If they are not in the story, the usual request is for accuracy. People like to know what is really going on and get annoyed when they detect a lack of accuracy.

The media is used to this kind of criticism and, in more recent times at least, tries to explain the reality of putting together a news story.

News, for example, requires the exercise of judgement. A reporter will ask: What is the most important thing about the event being reported? Is there something new? What do my viewers or listeners need to know? What is the angle?

A story will have to be prepared so as to fit a 40 second radio slot or provide a dramatic lead to a television bulletin.

No journalist would claim to be doing 'justice' to a story if that is taken to mean a complete and accurate record of everything that happened. Nor would they claim that they accurately present all points of view.

This is why media theorists talk about the media representing the world. Any coverage of an event is inevitably a version of what went on and it this that opens the way for debate about fairness, accuracy, balance, sensationalism – the issues you are discussing today.

Over recent years, particularly with the growth of media studies, the way the media works has been demystified. From schools through to tertiary institutions, students are taught how the media works and its relationship to society.

As someone who had a hand in the development of media studies in New Zealand, it will not surprise you to hear that I support the growth of what is called media literacy. Consumers should know about something as important as the media and have a 'critical' relationship with what they see, hear or read. By 'critical' I do not mean negative. I mean consumers should be asking themselves basic questions, such as, who owns the media outlet and what views are they trying to get across to me?

Readers of newspapers certainly needed to ask such questions about CanWest in 2002, as the following story from former Radio New Zealand journalist, Al Morrison, shows:

> In December 2001 when CanWest Global Communications bought 136 newspapers, including 14 major big-city dailies, CanWest issued an order that they would all have to run the same editorial each week, written at the company's headquarters in Winnipeg, and that local editorials must not contravene those views (Morrison, A. Objectivity. 2002).

I think we would all agree that the potential for unbalanced presentation of opinion exists in CanWest's order to its newspapers and that readers should be able to take this into account when reading their local newspaper.

The need for media literacy goes beyond such obvious events as the one brought to notice by Morrison. Everyday, audiences need to be asking: Why that camera angle? Why these words in the headline? Why is that person being used to bring authenticity to a story?

Why should audiences be asking these questions? They need to do so if they are going to base any or all of their opinions about a subject on what they are being told. After all, the story being given is a representation of what occurred, not the actual event.

For the media, all this talk about media literacy can be annoying. None of us likes to feel that the people we are seeking to serve are critically examining our every move.

Once again, however, I argue that this is a good trend. It has had the impact of forcing those who are preparing news, current affairs, documentaries or any other form of analysis to be forthcoming about the way they work.

Thankfully, that is exactly what the media professionals have done, although the debate is becoming increasingly complex, particularly as we enter the world of fragmentation and choice that I mentioned earlier.

It is this very complexity that has led the BSA to organise this symposium today. It is why they are considering making informed audiences one of their goals. The argument is that while regulation of some kind, along with a complaints process, remains relevant, perhaps in a world of media overload an informed audience is the best way to promote standards.

I think there is a lot of merit in this argument. However, there is a danger if such an argument allows the media to give up on its efforts to provide balance, leaving it to media-literate audiences to sort out what is and is not right.

As someone who still has a fondness for the notion of the media filling the role of a 'fourth estate', I do not like this idea at all.

You will recall that the 'fourth estate' refers to the role of the media in holding the powerful in society (originally the state, the church, and the military) to account.

This role requires the media to seek out the truth and tell the facts without bias.

As those of you who know the history of the media will be aware, the emergence of the fourth estate as a concept was hard fought. The importance of the media in defining the way people understand issues has long meant that powerful people have tried to control it.

That is why broadcasters are usually high on the assassination list during a revolution!

Where a free media is to be found, the concept of the fourth estate will also be found. Journalists and media organizations will seek to present an accurate account of events because it is their job to inform audiences.

I think this is what audiences also want. You do not have to have lived through the 1951 waterfront strike yourself to know that the government telling media outlets what to print is not a great idea. As a media consumer you want to know that the person telling you the news is at least trying to be accurate.

I think audiences like to know that people who bring them news of events have ethical codes, guidelines to work by, and are accountable.

This is true even if we also know that it is impossible, for the kinds of reasons already mentioned, to live up to the lofty goals of the fourth estate.

It is, for example, difficult to expect the news to be completely fair and balanced when the world itself is not fair and balanced. To take but one example. In the pre-MMP days of politics, news meant getting both sides of the story (as if there were ever only two). These days balance probably means, at the least, asking every party in parliament for their views. But in the world of deadlines this is not going to happen.

Judgements have to be made. This means the goal of being objective is always being traded-off against the subjective views of those who bring us stories.

I heard this debate rehearsed a few years back when the British Council brought a range of leading journalists out from the UK. During question time in one of the panel sessions John Campbell and Sean Plunket argued, on the one side, that journalists should be totally objective and, on the other, that journalists had values too and should let that be known and be allowed to take sides. I will leave you to guess who said what. But it struck me at the time that most journalists would probably subscribe to both schools: striving to be objective while accepting that they have values that influence how they do their work.

If this is the case, then audiences can probably be reasonably relaxed about issues of balance and just get on with being media literate.

But the world keeps getting more complex.

The emergence of what was called new journalism raised huge issues for audiences. If there is no responsibility to sort out fact from opinion where does that leave the audience?

How do we cope if the practice of journalism becomes one of simply asking sources for their side of the story without any effort to find out what the 'truth' might be?

What do we do if a documentary maker is so concerned with making their point that they overlook the need to verify the 'facts' they present.

How do we cope with the radio host whose editorialising leaves no room for anyone to have any other point of view?

What is our response to the trend where the media hire people with no journalistic background to tell us their extreme views in the hope that we will be entertained?

When there are literally hundreds of media outlets and we are tailoring our media consumption to meet our individual needs, how do we judge whether what we are getting is accurate or not?

Do we all just get a blog and start arguing with each other?

I don't think so. Or at least we might well get a blog but continue to ask for those who bring us stories to meet standards – like balance.

Strangely enough, as we enter the world of plenty, it may be that each of us will find that the need for regulation and the ability to hold people in the media to account will grow, not lessen.

Even if we could canvass all that will be available to us in the future, we would still want to know if what we are getting is backed by an effort to be accurate.

We will want to know people have ethics, guidelines, and can be held accountable.

Certainly, it is my belief that public broadcasters, with their history of seeking to be an authentic voice on issues, will find that they are more wanted for this quality, than less, in the future.

The question is simply one of how to attempt this task now. What should the role of a media watchdog like the BSA be in this century? Is the Broadcasting Act adequate to the task? Is it enough to focus on free to air media? Is the complaints process filling the needs of

audiences? Should a standards agency be contributing to the debate? Should the media literacy of the audience be a standards issue? Could a standards agency actively audit the way the media deal with an issue like balance?

These are the kinds of questions you will canvass today.

As you do, I would ask on behalf of audiences that you keep in the back of your mind the ideal of a media that seeks to be accurate, fair and balanced.

It may be an ideal, it may be hard to achieve – but none of this means we should cease trying.

I wish you well with your discussion today and look forward to hearing suggestions of a way forward.

DISCUSSION

Robert Boyd-Bell (independent producer)
Good morning, Minister, just one quick question that affects me directly. As a webcaster I have wondered whether we might voluntarily submit to the codes as it seems there are no other ways of setting standards … I just wonder if the administration is paying any attention to how you address standards in webcasting?

Hon Steve Maharey
I think that's one of the questions, Robert. The BSA was pretty much focused in the minds of people like Jonathan Hunt, at that time, on free to air media. Obviously now there are guidelines around pay television and so on, but there's just a huge range of media out there. Should the role of BSA be a whole lot broader? If so, how would you do that in practice? Accepting that the Government in no way wants to build a large bureaucracy of people doing this. I've often talked about the fact that maybe regulations are just too hard to run across this wide range of media and therefore maybe a whole different approach – like

the one I mentioned earlier which is more like an ombudsperson's role where they are simply in dialogue with the media all the time about an issue like yours – that might be a thing they study. So in a media market like we've got now, it becomes more about a proactive engagement and less about waiting for complaints, and that may be one way to deal with the sorts of things you're talking about.

Mark Sainsbury
Can you just clarify that? Are you saying that you're not looking at any expansion of the BSA or of its role?

Hon Steve Maharey
In fact I'm saying yes, I'd like the BSA to think about this. In the programme of action, we're asking should we change the legislation on the back of the very issues that you raise, like webcasting.

Bruce Wallace (Television Broadcasters' Council)
Don't you also have to look at the other way of going, which is liberalising the whole business – looking at complaints across the broad mass? You've got the Press Council, for example, that considers complaints across all the newspapers and the 4000 magazines that exist in New Zealand. Do you think the State should really be involved in these sorts of issues – balance, fairness and so on – in an environment which is changing so quickly?

Hon Steve Maharey
The assumption is that audiences still would like to know the State is involved and my conversations with people have never given me another impression. They want to know that, in the end, the State is still interested as a backdrop to this. They regard this as extremely important. As I said at the beginning, it gets very personal if you're on the news and you're a doctor and the way you are treated isn't the way you think you should be treated. Yes, you can go to court and so on, but you still want to know that there were guidelines, there were ethics, there were things going on here. That's still something I hear

from people all the time. And I think too when you're just watching a story and you feel 'that wasn't done well', you don't feel okay about just going to the broadcaster … you do want to know you can go to a legally mandated organisation to make your voice heard. So, until I don't hear that anymore, I think there is still a role for the State. But as much of it as can be done through a liberalised process as you're talking, that's been our model, and I think that's worked pretty well. We're the fallback – we're just the backdrop to it.

THE BIGGER PICTURE – A LEGAL VIEW

Joanne Morris, **Broadcasting Standards Authority**

The Minister gave a consumer view that balance, fairness, and accuracy are very, very important to audiences, and our latest research (that we are launching today)[1] confirms that. People overwhelmingly believe that those standards are very important in news, current affairs, factual programmes, and even in talkback radio, which is perhaps a bit more surprising.

Before we break for morning tea, I'd like to make some general points about the BSA's approach to balanced coverage in news, current affairs, and factual programmes.

Turning first to the 'balance' standard:

> In the preparation and presentation of news, current affairs and factual programmes, broadcasters are responsible for maintaining standards consistent with the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest.

The BSA always finds it interesting, and sometimes very challenging, to decide, in relation to individual programmes, what satisfies the requirements of this standard.

Many of you face the same challenge – and some of you face it several times every day – and I suspect you wouldn't always agree with the BSA's conclusions.

And that's why we've organised today's proceedings – so all of us who are concerned with this concept of balanced coverage in news, current affairs, and factual programmes can hear a range of industry views

[1]Broadcasting Standards Authority (2006) *Freedoms and Fetters: broadcasting standards in New Zealand*. BSA and Dunmore Publishing, Wellington. NZ.

about the issues involved, from whether there is a need for a standard like this in today's world, especially when other media, including the internet, are not subject to comparable rules, to whether the standard covers too many sorts of programmes, to whether it should be worded differently to convey its meaning more clearly.

Hopefully, we'll achieve at least two things as a result. First, we hope that today's discussion will correct any misunderstandings that may exist now about one another's views; and secondly, we hope that today will provide a good starting point for the review of the radio and free to air television codes of broadcasting practice, which broadcasters and the BSA will work on during the next year or so. Part of that task is to examine the 'balance' standard and its various guidelines to see if it should be clarified or otherwise amended.

The requirement for balanced coverage is specified by the Broadcasting Act but the wording of the TV and radio codes has been agreed among broadcasters and approved by the BSA. So they're your codes as much as the BSA's and it is in the interest of all of us to make them work.

As a backdrop to today's discussions, I'd just like to mention why the Act requires balanced coverage in broadcast news, current affairs and factual programmes. And the reason stems from the role of the news media in a democratic society.

Abraham Lincoln put it this way, 'Let the people know the facts and the country will be safe' – which goes a very long way to explaining why democratic societies protect free speech.

Citizens in democratic societies expect the news media to tell them the facts, which means that audiences judge news media according to whether or not they provide the sort of coverage that equips citizens to make up their own minds about important issues. And it's no coincidence that that sort of coverage is exactly the sort promoted by the principles of journalism. It is coverage that strives to let the audience discover the truth about a situation by presenting accurate information

in a fair manner. And this requirement for balanced coverage in news, current affairs and factual programmes focuses primarily on the manner in which information is presented to audiences.

One quick way of summing it up is that the balance standard is concerned to ensure that audiences are given 'the bigger picture' that is relevant to the more particular information that is being presented, for the reason that, without the bigger picture, particular information can be misleading.

But just how much of the bigger picture the standard requires in particular situations is, of course, one of the trickier questions that is bound to arise today. Although, one thing I would emphasise about the BSA's approach to that question is that we do strive to look at each situation on its merits. We try to discern the essential differences between the different sorts of programmes that are covered by the balance standard. In other words, we don't take a 'one size fits all' approach to what is required in news, current affairs and factual programmes.

There are two main reasons why we take the approach we do – the first is that the standard itself says that what's needed for balanced coverage is that 'reasonable efforts' are made or 'reasonable opportunities' provided to present significant points of view. And what is 'reasonable' is always a matter to be judged in context – so what is reasonable in one situation may well be unreasonable in another.

The second reason why the BSA doesn't take a 'one size fits all' approach to the balance standard is because the BSA takes the Bill of Rights' protection of free speech very seriously indeed. Of course, by law we are required to do that. But actually, by our training and experience, the BSA's members are highly attuned to the importance of free speech and we are well aware that the primary territory of free speech is news, current affairs and other factual programmes.

Now, as I'm sure you know, the New Zealand Bill of Rights Act provisions that protect freedom of expression – and so protect the news media's right to tell the New Zealand public the 'facts' – are worded like this:

> Freedom of Expression
> Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinion of any kind in any form. (s.14)

Then you have the only situation where limitations may be imposed and that is worded:

> Justified Limitations
> ... the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, (s.5)

So the only limits that can be imposed on free speech in New Zealand are those that a court will accept are 'such reasonable limits … as can be demonstrably justified in a free and democratic society'.

Now, it is the High Court that gets to hear appeals from BSA decisions, and there is no further avenue of appeal – rightly or wrongly. So if a broadcaster thinks that a BSA decision puts unreasonable limits on the broadcaster's right to free speech, a High Court judge has the final say.

But the BSA believes that it is generally not the best use of anyone's time and money to end up in court over issues that are of critical importance to us all. Far better that we debate them in fora such as this and then use our improved understanding of the issues in our future dealings with the codes.

So – I return to my main message for today, which is that we want you to challenge speakers, challenge the BSA, and argue among yourselves about the best way to ensure audiences can be exposed to a comprehensive range of viewpoints and issues.

And I'll conclude my introductory comments with the words of a former head of news for Associated Press, George A Krimsky, which I think are almost equally applicable in New Zealand.

> There is nothing in the American constitution that says the news media must be responsible and accountable. Those requirements were reserved for government. In a free-market democracy, the people ultimately decide as to how their press should act. If at least a semblance of truth-in-the-public-service does not remain as a motivating force for the mass media of the future, neither free journalism nor true democracy has much hope, in my opinion. (George A Krimsky, *The Role of the Media in a Democracy*, http:/ usinfo.org/media/press/essay3.htm)

All that remains for me to do is to outline the programme for the rest of the day. The first up after morning tea is Paul Norris who will tell us how the principles behind the balance requirement came to be developed in New Zealand broadcasting. He will also tell us what they do in other relevant countries.

Then our first panel will ponder the implications of the phrase – used in the Broadcasting Act and in the balance standard – that balance must be provided in 'the period of current interest'. What does that mean, especially since some stories remain live for months – even years – while others flare and die far more quickly?

Then our second panel of the day is going to look at what might comprise a 'controversial issue of public importance' – because, remember, it is only if a programme is about such an issue that it must be balanced. That is what the Act and the codes say. But why should controversial issues alone be balanced?

Our last panel is going to tackle an issue that was raised by the researchers who conducted the research we published last year – *The*

Portrayal of Māori and Te Ao Māori in Broadcasting.[2] They said that balance is essentially a Pākehā concept that doesn't take sufficient account of te ao Māori, the Māori world view. So we're going to find out what some Māori broadcasters think about that.

Finally, John Sneyd from the BSA is going to talk about some key points from the BSA's balance decisions, especially those of the last few years. And John's analysis, once it is published, will provide a handy snapshot of the BSA's approach to the balance standard and, in particular, the refinements that the BSA has developed to take account of material differences between different sorts of factual programmes.

We will wrap up the day with the launch our new book *Freedoms and Fetters: broadcasting standards in New Zealand*. The research underlying this publication was very much directed at obtaining community and broadcaster insights into the standards of balance, fairness, and accuracy in factual broadcasts, so the book contains brand new information about those topics. In addition, it updates our longitudinal research of community attitudes to good taste and decency, including the list of rude words.

I invite you to have a cup of tea, before we settle in for the day. The BSA really appreciates that you have made the effort to attend and we hope you enjoy the sessions that follow.

[2] The Media Research Team, Te Kawa a Māui, Victoria University of Wellington (2005) *The Portrayal of Māori and Te Ao Māori in Broadcasting: the foreshore and seabed issue*. BSA, NZ.

BALANCE: SOME HISTORY AND COMPARISONS

Paul Norris, **New Zealand Broadcasting School**

I have been asked to provide a little context within which we can examine the so-called balance standard, to remind you of its origins, to look at how other countries deal with this issue, and finally, to make a few observations on how it may be affected by future developments.

As a reminder of what we are talking about, here are the words of the 1989 Broadcasting Act:

> …when controversial issues of public importance are discussed, reasonable efforts are made … to present significant points of view either in the same programme or in other programmes within the period of current interest.

As the BSA reminds us in so many decisions, context is all-important. Can you say the f-word on television? So liberal have we become that I'm tempted to say yes unconditionally, but the formal response is that it depends … on the context.

And the context in which the balance standard was created in its present form was a very different period from today. The wording of the 1989 Act is precisely the same as in the previous Act, the 1976 Broadcasting Act, the Act brought in by Muldoon and the National Government which effectively saw the reunification of broadcasting under the BCNZ. 1976 is the first time the words appear in this form; to understand the significance of this we have to go a little further back, to the heady days of broadcasting in the sixties.

At this stage I was one of a happy band of colonials beavering away in the television newsroom of the BBC, so I have had to rely on a relatively small amount of published material relevant to this topic, supplemented by conversations with one or two old-timers as they recollect favourite anecdotes from the period. There seem to have been plenty of these, but I crave forgiveness from those who go back that far if I fail to do justice to the story.

The mid to late 60s was a period when television current affairs was in its infancy, but when it sought to behave with a maturity beyond its years. It is a truism to say that good journalists will always want to push boundaries, and the boundaries were certainly being tested during these years. New programmes were introduced, such as *Compass* in 1964 and *Gallery* in 1968, featuring such luminaries as Ian Johnstone, Brian Edwards, and producer Des Monaghan – programmes which became vehicles for a new style of challenging journalism which discomfited politicians and broadcasting managers alike. There was more than the usual tension between the body of journalists and the broadcasting hierarchy – men like the Chairman of the NZBC, (1969-1974) Major-General Walter McKinnon or Director-General Gilbert Stringer (1962-1970). Such men, however admirable in their own way, were not naturally sympathetic to the professional ethos of journalism.

Among the problems facing the broadcasting leadership as they sought to restrain the excessive enthusiasm of their journalists, was their accountability to Ministers and to Parliament and the requirement to fulfil their statutory obligations. In this period, the key Acts were the Broadcasting Acts of 1961 and 1968, where the wording is identical in respect of balance. The Broadcasting Corporation had to comply with the requirement:

> …that programmes maintain a proper balance in their subject matter and a high general standard of quality. (Broadcasting Acts 1961 and 1968, section 10.)

There was much anguish over how to interpret this clause, nicely described by one observer as 'that phrase of 1,000 meanings'. It came to achieve a certain notoriety as the justification for management decisions on a number of controversial programmes.

Perhaps the most celebrated was the Bick affair. This arose from a *Compass* programme in 1966 which examined possible price rises

from the forthcoming change to decimal currency. The programme was postponed by the Corporation because neither Muldoon nor any of the decimal currency officials would appear on it. The key point here is that Stringer's decision as Director-General was based on the premise that balance was necessary within particular programmes, an interpretation that effectively gave interested parties a programme veto. If I won't come on the programme, the programme can't go ahead.

To any right-thinking journalist or broadcaster, this situation would be intolerable, and indeed the producer of the *Compass* programme, Gordon Bick, resigned in protest at the Corporation's decision, claiming political interference and saying that he was tired of 'the weak men of the NZBC and their timid decisions.' We should remember that those were different times, when different rules and conventions applied. Muldoon had argued that he wanted to appear on the programme but could not because of the Corporation's pre-election ban on candidates appearing on television. So the tale is a little more tangled than it may at first appear.

But it is fair to conclude that at this time the Corporation's stance was one of extreme caution. To illustrate the point, consider a Parliamentary Question from a Member in 1965. He wanted to know if it were true that the NZBC had refused to televise a speech from President Johnson because it was not balanced by a speech from Mao Tse Tung.

In any event, change was in the air – the balance standard was to be reinterpreted. By 1969 balance was no longer to be achieved in a particular programme; instead the Corporation undertook to 'afford opportunity for all significant viewpoints to be presented within a reasonable period of time' (Aims and Objectives of NZBC Programming, Jan 1969). Controversial topics were divided into acute and less acute. Even for acute ones different points of view could be put on consecutive days. This seems to have been a reinterpretation coming from within the Corporation rather than offered from outside.

Although this move undoubtedly made things easier for the current affairs teams, it was never going to be the solution to every problem. In 1971 Brian Edwards made a pilot for a new show, a pilot featuring Muldoon being challenged by three radical activists, with a voluptuous woman in a pink bikini affecting a striptease thrown in for good measure, if not for balance; a show described by David Beatson as 'the finest television programme you never saw.' The show was canned as not up to standard – as Edwards describes it, the only reason eventually given (by one Peter Fabian[3]) was that it contravened section 10 of the Broadcasting Act. A blunt instrument used no doubt as a cloak for management's real reluctance to embrace such a programme.

I mention all this partly because it is simply fascinating in itself, and may be an eye-opener to anyone under 50, but also because it is the background to the changes in the 1976 Broadcasting Act, in which we find the present standard for the first time. Indeed, the 1976 Act is the first time programme standards, embracing not just balance but also taste and decency and privacy, were written into legislation. It should be noted that the standards were not mandatory – the legislation required that broadcasters must have regard to certain principles.

I understand there was a considerable debate over the balance clause which initially did not contain the phrase 'or in other programmes within the period of current interest'. It was not in the original government bill but only inserted at the Select Committee stage. This is perhaps surprising given the way the NZBC had chosen to reinterpret their balance obligations since 1969, but indicative of the strong feelings aroused by the issue. But at least the legislation now enshrined the principle the NZBC had arrived at itself, thus ushering in a period seen by some observers as one of journalistic empowerment.

The Broadcasting Act of 1976 is also noteworthy for the creation of the Broadcasting Tribunal, and an externally driven complaints

[3] Then NZBC Public Relations Officer, later BCNZ Head of Programme Standards.

process somewhat similar to the one we have today. In the period I have referred to before 1976, complaints were handled internally by committees within the NZBC. It can be argued that the presence of an independent final arbiter outside the broadcasters has taken the heat out of some of the tensions I have portrayed. It also led to greater transparency in that the decisions of the Tribunal were published, albeit with limited circulation. Decisions of the NZBC, later the BCNZ, were not published, a point which sometimes led to further suspicion from the journalists when decisions went against them. A good example was a decision that was most critical of a *Dateline* programme on the SIS in 1977.

Implicit in all I have said so far is the problematic nature of a standard which revolves around an ill-defined concept of balance, a problem aggravated when society is changing and when society's expectations of broadcasting may be changing.

And whatever is decided on the fate of the balance standard, what I believe we do not want to see is a situation where any code or codes are seen as tools to be used by management to browbeat journalists and programme makers and to limit their creative expression.

As a prompt for a more detailed examination of whether we need to amend or abolish this standard, I will now turn to how such a standard is used in some other countries, which are relevant to us in that they have both a tradition of Westminster-style democracy and a strong ethos of public broadcasting, although the existence of the latter in New Zealand is open to debate.

Canada

The Canadian Broadcasting Corporation (CBC) has one of the most comprehensive codes of Journalistic Standards and Practices of any broadcaster, with an independent Ombudsman at the heart of its complaints system.

Under 'Principles' it has a whole section on balance, including the following:

> Programs dealing with matters of public interest on which differing views are held must supplement the exposition of one point of view with an equitable treatment of relevant points of view. Equitable … means fair and reasonable, taking into consideration the weight of opinion behind a point of view, as well as its significance or potential significance.
>
> CBC, as a journalistic organisation, must ensure its programming is fair and balanced. Program balance should be achieved, where appropriate, within a single program, or otherwise within an identifiable series of programs.
>
> Continuing news and current affairs programs must present a balanced overall view on controversial matters, to avoid the appearance of promoting particular opinions or being manipulated into doing so by events. Those responsible for journalistic programming must avoid a cumulative bias or slant over a period of time and must be mindful of CBC's responsibility to present the widest possible range of ideas.

This last point introduces a concept of balance going beyond our standard in New Zealand. Arguably, it presents a more important point than the narrower focus on balance in a particular item or a number of items in the period of current interest. For all its apparent merits, I suggest there may be considerable difficulties in determining whether such a standard has been met.

Australia

Australia operates under a number of different codes, one for commercial radio, one for commercial TV, and separate codes for the public broadcasters ABC and SBS. The final court of appeal is now the super-regulator, the Australian Communications and Media Authority (ACMA), which covers both telecommunications and broadcasting.

Here is the balance provision for commercial radio, specifically current affairs programmes:

> Broadcasters must ensure that reasonable efforts are made or reasonable opportunities are given, to present significant viewpoints when dealing with controversial issues of public importance, either within the same program or similar programs, while the issue has immediate relevance to the community.

This is very similar to our own code, suggesting they might have been derived from the same source.

The commercial TV code has no mention of balance whatsoever. Its rather tersely-worded code simply says that in news and current affairs, broadcasters must present factual material accurately and represent viewpoints fairly.

The code for the ABC does embrace balance:

> In news, current affairs and information programs every reasonable effort must be made to ensure that programs are balanced and impartial. The commitment to balance and impartiality requires that editorial staff present a wide range of perspectives and not unduly favour one over the others. But it does not require them to be unquestioning, nor to give all sides of an issue the same amount of time.

Here balance is bracketed with impartiality. Note too the attempt to clarify what the code does not mean.

There are several important caveats in the ABC code:

> Balance will be sought through the presentation … of principal relevant viewpoints on matters of importance.

This requirement may not always be reached within a single program or news bulletin but will be achieved as soon as possible.

This last phrase is another variant on the 'period of current interest'.

The United Kingdom

Here is another country with a multiple complaints system, in that while Ofcom is the principal regulator, in matters of impartiality and accuracy the BBC has the responsibility to regulate itself. I will say more on the BBC in a moment.

Here is the Ofcom code, under a principle introducing the concepts of due accuracy and due impartiality:

> To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

Impartiality means not favouring one side over another. 'Due' means adequate or appropriate to the subject and nature of the program.

'Due accuracy' may be a concept troubling to some. Are there shades of accuracy?

And then there is further clarification as to meaning:

> So due impartiality does not mean an equal division of time has to be given to every view, or that every argument has to be represented.

Clause 5.12 of the Ofcom Code is similar to our requirement:

> In dealing with matters of major political and industrial controversy and major matters relating to public policy an appropriately wide range of significant views must be included and given due weight in each program or in clearly linked and timely programmes.

Despite the considerable detail in Ofcom's code, there is still plenty of room for flexibility in interpretation.

Finally to the BBC. Again there is much emphasis, as in Ofcom, on due impartiality, which is defined as:

> Due impartiality … requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument on every occasion or an equal division of time for each view.

The BBC describes its commitment to impartiality as seeking:

> … to provide a properly balanced service consisting of a wide range of subject matter and views broadcast over an appropriate time scale across all our output.
>
> We take particular care when dealing with political or industrial controversy or major matters relating to current public policy.

This is the only reference to balance now found in the BBC's editorial guidelines. It seems to me that this is a proper use of the concept of balance, similar to the clause in the CBC code, in that it is referring to a balance of information and views across all the output. Earlier references to balance in items were removed in a comprehensive rewrite in 1993 by one of my former colleagues, Richard Ayre, when he took over the role of Director of Editorial Policy.

He described the concept of balance in news and current affairs as not helpful or sufficiently flexible or sophisticated:

> It lacks sophistication: it is a basically two-dimensional system in a three-dimensional world. It sees arguments as black and white, when in reality they are all shades of grey.

The problem of seeking balance is its definition in physics which is something like 'the equilibrium of forces around a fulcrum'. That concept of a fulcrum or central point around which the opposing forces balance is inimical to the idea of public policy issues. It gives undue credence to centrist positions. It means that exploration of 'political extremes' is

minimised, whereas good journalism often needs to explore extremes. It is the manner in which they are explored, rather than the volume, that ensures the coverage is 'due' (ie appropriate).

So the BBC now relies in this area on the concept of due impartiality. It sees this concept as crucial in its dealings with its audiences, and in 2003 instigated a monthly tracking survey of public perceptions of BBC impartiality. It also commissions regular audits of its impartiality on specific topics, the most recent being on its coverage of the EU – a most contentious issue in British domestic politics. The audit did discover serious weaknesses in the BBC's coverage.

We should at least consider whether the path of due impartiality is one that we too should follow.

In our deliberations today, it is worth remembering what the point of the exercise is. Systems of codes are not there simply to encourage viewers or listeners to complain or to give them a sense of self-righteous pride and achievement when a news organisation has to eat humble pie and apologise. Nor is it the purpose of codes to cower broadcasters into submission through fines and heavy penalties. The purpose should be to encourage better programmes and a better service to viewers and listeners, indeed to stimulate better journalism. If their effect is to inhibit good journalism, to restrict lines of inquiry or opportunities for legitimate interrogation, or to limit the range of opinion and debate, then we have a problem. The pursuit of balance may have nothing to do with the pursuit of truth.

Here I have an observation about the standard as used currently. In some recent decisions, the BSA has decided that the subject of the item complained off is not a controversial issue of public importance and thus balance and impartiality are not required. It seems to me that this is setting one standard for certain types of story – arguably the most important ones – and a lesser standard for the others, which may also be important in different ways. Whereas you could argue

that a proper standard of journalism should apply across all stories, big or small, controversial or not controversial. Surely, as in the BBC approach, due impartiality is a principle which should apply to all journalism, being a principle which can be applied flexibly according to circumstance, just as fairness can.

Fairness will usually dictate that a right of reply should be offered to any person against whom critical comment is directed or serious allegations made. But, as the Canadians point out specifically in their code, the concept of a right of reply is not to be confused with balance. Or, in BBC terms, due impartiality. In cases where a right of reply is declined, where the villain won't do an interview, the broadcaster still has a responsibility for due impartiality and fairness and therefore to include such material as may be available to fill in the gap.

I remember a story from the early days of *Holmes*, where the BSA rightly gave us a caning. It was a building dispute where the builder would not front. However, the case had been in the courts where the builder's case had been effectively laid out. This material could have been used in the story, but was not, leaving us exposed to the conclusion that the story was hardly balanced or impartial. You could equally describe it as poor or inadequate journalism, in that an important element in the story had been omitted. My point here is that such cases do not need a balance standard – they can be well dealt with under impartiality and fairness.

Election campaigns

If the requirement is for due impartiality, then this will apply most importantly and under the closest scrutiny during election campaigns. It may be thought that at such times the concept of balanced coverage would be at its most apposite. Not so, I would argue, as balance interpreted through the mathematical tyranny of the stopwatch may not produce the most impartial or fair coverage. Contributions from a particular party may be either positive or negative towards that party depending on the context and indeed the approach taken in the

reporting or questioning by a news organisation. A simple quantitative measure has never been adequate – a qualitative approach is necessary for a more sophisticated outcome. Again, applying the concept of due impartiality, and all that that entails, should be a better tactic. It would have suggested, for example, that the reasons given for the exclusion of Mr Anderton and Mr Dunne from the TV3 leaders' debate at the last election – namely one inconclusive poll and a desire not to have more than six persons in the studio – could not be seen as effecting due impartiality between them and the other leaders.

Future

You would not expect me to allow this opportunity to pass without mention of the d-word – digital, on which we understand the Government is soon to announce its policy.

Assuming yet more channels, and video on demand made possible by cheap high speed broadband, where does this leave the codes? Can they be expected to apply to this promised plethora of new content, delivered on a variety of devices including mobile phones and portable media players? How is balance to be achieved across podcasts or mobisodes of political or controversial content? Should we even bother?

There should be no problem in continuing to enforce a standards regime across all mainstream broadcasting much as today, even if there is some expansion once digital comes on stream. It is simply a bigger volume of content, although whether it will prompt more complaints cannot be predicted. The problem areas will be in new forms of content, especially those created by citizens or users – the non-professionals.

Initially at least, most video on demand will originate from established companies or programme makers simply reversioning content already compliant with the codes, although there may need to be measures to prevent children from accessing unsuitable material which may have been first broadcast long after the watershed.

But I believe that the full flowering of the digital revolution will mean a huge increase in the amount of video accessible and downloadable over the internet. We all know that the internet can be a most unfair and unbalanced source, a vast repository of all sorts of scurrilous lies and inflammatory opinion. Imagine this Babel of bias compounded by the power of video.

It would be foolhardy to try to bring all this material within any kind of standards regime. Let us simply define it as beyond conventional broadcasting and leave it to the market and the law, just as with print.

Broadly speaking we should envisage a clear distinction – on the one hand, content on channels which continue to be delivered direct into the home, whether free to air or on subscription. This content should remain under a standards regime. And on the other hand, content which people seek out, on-demand content of various kinds, both free and paid for. For this material standards cannot apply – any safeguards can be put in place through all users of such content having to have unique identifiers, in much the same way as online banking is done, or any system using password access. Of course there will be grey areas and unforeseen difficulties, but at least such a plan would restrain the BSA from getting into areas where there is no need for it to go. If this seems all too simple an approach, then perhaps we will need another seminar to give due weight to the complexities of this important issue.

DISCUSSION

Jim Tully (Head of Journalism, Canterbury University)
I appreciated that, and as you know I think the term balance should be dumped altogether. Do you take the view that coming out of all those clauses and phrases that people have compiled, the general message seems to be that it's important to fairly represent significant viewpoints, relevant viewpoints, over the period of currency, rather than to get preoccupied with notions of balance? That the recurring

words tend to be 'significant viewpoints' and 'fairly reporting', whether you use the word 'due' or whatever. Would you accept that?

Paul Norris
If we're going to keep a balance standard then I think we have to reword it because this balance standard is tied up with that provision in the Act which talks about, 'in all matters of public importance', 'controversial issues', and so forth, which limits it. That's the only area where balance is supposed to apply. Well, that doesn't seem to me to be right. I mean, if balance is so integral to good journalism then it should cover the whole spectrum. So I think at the very least that standard would have to be rewritten.

The concept of a broadcaster having to achieve balance across its entire output seems to me to be a really noble and great ideal, but again, fairly difficult to complain against such a standard, unless you've monitored an awful lot of the output and have got chapter and verse on it. And very difficult, I think, to conduct an adequate audit. It would be a nightmare for the Authority to have to try and police that kind of standard.

In some of the examples that I've given you from the CBC and the BBC, these are principles that they aspire to. They don't necessarily see them as clauses to be complained about. I haven't done enough analysis to really work through and see how many complaints there may have been that are tied directly to those particular codes.

So I think if you're devising codes within a complaints process, that's one thing, but laying out a series of principles by which you believe your broadcasting should operate, that's a different thing again, and there may have been a bit of confusion.

BALANCE AND NEWS: 'THE PERIOD OF CURRENT INTEREST'

Don Rood, **Radio NZ**, Richard Harman, **independent producer**, Bill Ralston, **TVNZ**, Tawini Rangihau, **Māori Television**

Chair: Mark Sainsbury

Mark Sainsbury
It's interesting that we come from an industry where we assiduously argue that we present facts as opposed to opinions, and in a fair and of course balanced way. But we've got four veterans from the industry (isn't it sad when you get to that stage?) who are going to present their own opinions on where things are at. What we are looking at are some of the guidelines that define when balance has to come into place, that is 'points of view', and what is a 'period of current interest'.

First up we're going to hear from Bill Ralston who is Head of News and Current Affairs at TVNZ.

Bill Ralston
Thanks, Mark. If I can depart completely from the theme, I just want to say I'm quite disappointed to see that this whole meeting is covered by the Chatham House rule. If there is a huge impediment to fairness, accuracy, impartiality or balance in broadcasting news coverage – and, I think, all news coverage at the moment – it is the encroaching secrecy brought on by a variety of means, in particular Court suppression, which is one of the biggest problems we face at the moment.

In Wellington at the moment there is a woman whose name I cannot tell you, facing charges that I cannot tell you about, brought by somebody that I cannot tell you about – and I think I've actually breached it by telling you that. It is absurd, it is dangerous. We only have to look to a recent trial, which again I can't go into because of suppression orders. But if we had been able to bring up the information about other trials, both previous and subsequent – whoops I think I have actually breached the suppression order if you can guess what case that is – then you may be a damn sight better informed than you were

by simply watching any television news bulletin or listening to a radio news bulletin, or reading it in the newspaper. And I think the media in general have an obligation to be as open as we possibly can, which is why I would have quite liked this session to be open to other media.

Let's have a look at what we're talking about here: Paul [Norris] ran through the Broadcasting Act and standard 4; and the TVNZ manual about balance and impartiality says it is 'to be fair and to reflect all relevant shades of opinion on a given issue in news and current affairs to ensure that arguments on all sides are given appropriate emphasis and tested with equal force' – which I really like, the fact that all arguments should be tested and not just with patsy questions and answers, and not just running someone's spin. 'Impartiality cannot be achieved', it says, 'by stopwatch or script writing counts. It is achieved by avoiding bias to any one point of view, by avoiding omission of the relevant facts or misleading emphasis'. I'm sure Paul was probably one of the co-authors or authors of that, and I think it's actually an extremely relevant definition to be using.

If I can go back now, and I don't want to re-litigate BSA decisions in the last few years, but I need to use some of them as a bit of an example. The BSA itself as a great exponent of 20/20 hindsight should be able to forgive me for doing the same.

I want to look at the recent decision on the *One News* 'Continental Cars'[4] story. That was about a used Ferrari that couldn't be put on the road. The Authority noted that while such an issue was raised – the difficulty in obtaining safety certificates for imported second-hand cars was the issue there – the BSA felt the item failed to entirely focus on that, and it rather became the personal story of a car dealer, Mr Jerry Clayton, failing to get his car registered, and the part played by complainants.

[4] BSA decision no. 2005-081

What the Authority appeared to do is subsume the question of balance into the standards of accuracy and fairness, and it's actually done that on a number of occasions in the past … Paul had some really interesting concepts of balance there, and sometimes we get very confused, don't we, between balance and fairness and accuracy.

When I was talking to Mike Farman who handles a lot of our complaints, he brought up the point and I made a note of it down here, that editorial balance is doing the right thing by the story to all sides, and it's simple basic common sense, and too often common sense, I think, is not taken into account by the broadcaster, and sometimes also the BSA.

Standard four talks about taking into account significant points of view. Winging it's way to you, I think, as we speak, is a complaint from a group of individuals who I'll call conspiracy theorists who took exception to the story about the Twin Towers and linking Bin Laden and al-Qaeda to that, saying 'no, no, no, it was in fact done by the CIA and you only need to go to a number of sites on the internet and it will tell you'.[5] They object to the fact that the point of view of the conspiracy theorists was not being injected into all our coverage every time we mentioned Twin Towers and al-Qaeda. Well in fact, we actually ran a story the other week which looked at the conspiracy theories. Now, I would regard that as achieving some form of balance, at least the conspiracy theory did eventually get on air, but if I have to actually broadcast a conspiracy theorist's view of the world every time we talk about an issue like the Twin Towers – the whole notion is just completely and blatantly absurd.

Here's another example – talking about significant points of view – if we go to a recent case called Osmose.[6] It was a piece on *Close Up* (and ooh we got fined). The presenter, one Mark Sainsbury, was accused

[5] Subsequently determined by the BSA. Decision no. 2006-011

[6] BSA decision no. 2005-115

by the BSA of failing to represent the firm's viewpoint as the Minister involved, Chris Carter, had failed to do so. Now, this is a blatantly absurd point of view. We had Nick Smith the alligator on ... we had the Minister defending his stance on this particular product. Well, because the Minister was incompetent and failed to adequately defend the product, we were accused – we should have got the firm on. Well, I'm sorry, we get into some quite bizarre situations. If it is the Minister's failure to balance Nick Smith's allegations and accusations – how many people do we have to go to before we can get someone to adequately represent a point of view? I just find it slightly absurd myself.

The period of current interest is another line that's used there, and God knows when the current interest is. To go back to the Continental Cars decision by the BSA, the BSA dismissed TVNZ's confident claim that an item done in May which is the subject of the complaint about balance should only be judged in relation to an earlier story on exactly the same matter broadcast in February. What they're saying is, we broadcast a story in February, we then broadcast a story in May, but I'm afraid that was too great a period of time. BSA said 'few viewers would have recalled the background it provided'. Well, subsequently we did a third story, again a month or two later – so what is the reasonable period that they talk about? No-one wants to define it particularly, but the interesting point here is that they felt that May was too far removed from February to have a logical sequence of items.

I point out to the BSA that on any given night two-thirds of the audience watching a particular news bulletin, and in this case *One News* at 6pm, two thirds were not watching the night before. Possibly the night before that. Every night an audience churns over by two-thirds. If you look at your own viewing patterns you do not watch seven nights a week. You might watch three or four nights a week, but not four in a row. Now, my point here is, how can anyone assume that a viewer is going to be able to recall an item from four nights ago when they may well not have

been watching? I mean the item is either there or it's not. And it's up to the viewer to access it and we have to take our chances.

I want to pick up very briefly on what Paul was saying, and, I think the Minister – about the increasing irrelevance of the Broadcasting Standards Authority, as I understood it, due to technological advances. Sadly, I was not here, it was reported to me by other journalists.

We do have a difficulty, we are moving into a digital age. I think it's very likely, for example, that we will run a 24/7 news channel within the next twelve months – if it gets the right approvals and the right funding. Now, here's a situation, when you're talking about balance … you may run a completely unbalanced story at midday, but by three o'clock you've got the other point of view in, so during the course of the afternoon the whole story balances itself out.

I think the other problem is, as we go increasingly digital, material is available for cellphone access, for downloading, story by story. I'm not talking about streaming here. On their cellphones people may see three stories of relevance to do with a particular issue and choose to download only one. Now that particular part of the story may only be one part, one third of the overall story that's dished out during the day, but it's available there online and they can access it. Where's the balance there? And again we come back to podcasting and everything else.

I thought Paul's point was relevant at the end. Do we feel constrained by the BSA? Do we find that it is actually strangling good journalism? I think that at times it does force us to think about what we do and how we do it, and I think it's extremely relevant in terms of balance, fairness, and accuracy; but on other occasions I do find that it does become an impediment, that we do become worried, that we constantly are forced to think about where that line may be. If I had one point to make to the BSA, it is that quite often as a news producer or editor or journalist, and as we go into the digital age increasingly, we're forced

to make some of these decisions in a matter of minutes or, at the most, hours. Whereas the Authority has days to ruminate on whether it's right or wrong.

Mark Sainsbury
Thanks, Bill. One of the issues that Bill brought up, which we're going to explore throughout the day of course, is when you're looking at a period of interest, over what media do you balance things off? As he mentioned, there are slightly different standards for radio: 'broadcasters may have regard to views expressed by other broadcasters or in the media' [Radio Code], which raises the issue of achieving this idea of balance, not even within your own organisation but according to what has been broadcast on competing media.

Don Rood is the Head of News for National Radio, and those are the sort of issues that he has to grapple with every day. Over to you, Don.

Don Rood
Fair and balanced. It all sounds so easy, the media entering the spirit of the New Zealand tradition of a 'fair go'. But is such a goal as easy as it appears? And is it realistic?

If this was rugby, then the answer would be yes, because as a Hurricanes supporter, I know we could depend on Jonathon Kaplan.

But unfortunately, this is broadcasting, and lovely man that he is, Jonathon can't help.

Radio and television, public and private, operate under rules unique to the broadcasting industry. The Broadcasting Act of 1989 requires broadcasters to present significant points of view. There are qualifiers, such as making 'reasonable efforts' to get these points of view, if not in the actual programme, at least within the period of current interest.

That tricky phrase, 'within the period of current interest', is an important point, and one which I will discuss shortly.

Watching over radio and television's efforts to achieve these targets is our host, the Broadcasting Standards Authority, which has wide-ranging powers to punish, even to the extent of restricting advertising.

In contrast, the print media operates in a much less regulated environment, self-governed through the Press Council. Even then, that is optional because newspapers can choose if they actually join the Council. As a result, New Zealand newspapers can take a much freer editorial line than their broadcasting counterparts.

And then there is the question of just where websites, blogs and text message services sit, and who is responsible for such a wide collection of news dissemination and editorial styles.

While journalistic ethics require all sides of a story to be represented, it is only broadcasting journalists who are saddled by parliament with the legislative demand to be 'fair and balanced'. For others, it is an ethical imperative but not enshrined by statute.

So how do we define this apparent burden of 'fairness and balance?'

Are 'fair' and 'balanced' the same thing, are they complementary, or are they a synonym for objectivity?

Does it mean every pressure group, organisation, and madcap collection of fringe interests has a right to express their views on a subject?

Principle four of the Radio Code would seem to say yes, with section 4b apparently allowing even listeners the right to ask questions or present rebuttal within the period of current interest. If taken literally, then this presents an interesting problem for New Zealand's major radio networks.

Radio New Zealand boasts around six hundred thousand listeners a week. As painful as it is to acknowledge, The Radio Network and CanWest also have sizeable audiences. Allowing our listeners – as

dearly loved as they are – the right to individually ask questions or present rebuttal would seem to be a huge programming challenge.

It would remain so, or perhaps even be exacerbated, if this right was to be confined to the radio code guideline of just when 'controversial issues of public interest' are being discussed.

Then of course, there is the issue of exactly who at each of these networks is going to be quizzed by these listeners keen to exercise their right.

Going by personal experience, many listeners believe it should be me, and I would expect my private radio colleagues would receive similar calls.

It is fascinating, frustrating and humbling as a broadcaster to realise just how much listeners have invested in their favourite station, with such calls humanising those dry survey TSL, or Time Spent Listening, figures.

Normally, the complaint is that the story, interviewer, programme or entire network is 'too left wing', 'too right wing', or just plain 'too biased'. These are off-the-shelf, knee jerk accusations, similar to the rugby fan's dismayed cry of 'He's been doing it all day ref'. Usually the caller is satisfied with an explanation, sometimes they take the issue to the next step by lodging a formal complaint.

This can end up going to the Broadcasting Standards Authority for a ruling, which if significant enough will end up being widely discussed and debated, perhaps even by symposiums such as this.

However, while this 'too one way', 'too the other' accusation masquerades as a concern about balance, it actually masks the issue.

Presenting a balanced story is not achieved by putting one side's view, followed by the other side's. This approach can quickly skew a story by making it conflict-driven, with black and white opinions which, in the public's view at least, must result in a winner or loser.

Instead, balance should be achieved by providing the audience with a whole view of the story or issue, presenting many conflicting opinions and providing analysis at the same time as trying to avoid being captured or manipulated by one party.

All of this should be set against a background of facts, gathered by journalists and presented in a way that informs the public so they can decide for themselves which opinion has most merit.

Indeed, the bulk of work in Radio New Zealand News involves collecting, searching for, and reporting facts – in the form of news.

Analysis and testing opinion is a luxury assigned to more senior journalists in selected programmes.

The alternative to facts is prejudice, and, as E.B. White said, prejudice is a great timesaver. You can form opinions without having to get the facts.

So our sense of fairness and balance is anchored by facts – which perhaps is about as close to the truth as a working journalist with deadlines, meagre resources and a public hungry for immediate news, can realistically get.

Nevertheless, the risk of capture or manipulation during newsgathering is all too real in these days of mass communication, public relations skewing and political spin, heightened by journalists' competitive drive to get the story first. British public relations guru Max Clifford observed that most of what people read in the papers is lies. He said he knew this because a lot of the lies were his.

Clifford's observation is galling for all journalists, but none the less underscores the media industry's vulnerability to accusations that it isn't being fair, or balanced.

There are other all too convenient ways for an accused organisation or individual, such as an embattled politician, to try and kill a story, to

make sure it is never exposed to public scrutiny. The most obvious is to refuse to comment, to decline all requests to tell their side of the story.

This is a crude form of blackmail, and a cynical and unjustified attempt to limit our freedom of speech.

Radio New Zealand's response is that a person should always have the right of reply and that the offer must always be made, and continue to be made with each re-telling of the story. If the refusals continue, then that must be repeated as part of the story. This is to inform the audience that Radio New Zealand is not attempting to portray just one side of the story, but instead trying to broadcast a measured, fair and balanced analysis that a key figure has chosen not to be part of.

This brings me to the important issue of 'period of current interest', a phrase contained in the 1989 Broadcasting Act.

The Act requires every broadcaster to comply with the principle that when controversial issues of public importance are discussed, reasonable efforts must be made to present significant points of view either in the same programme, or in other programmes 'within the period of current interest'.

Defining what this period is, is like deciding how long is a piece of string.

Broadcasting is dynamic, forever changing, and with the unique ability to update a story as it happens. The whole of a breaking story won't be told in the first newsflash, or the next news bulletin. It may take hours, days or weeks for the entire story to be revealed, or unravelled.

The essence of radio is its immediacy and sufficient weight needs to be given to the industry's dynamic nature. It is not fair to call broadcasters to account midstream by arbitrarily deciding when the period of current interest has ended, or narrowly defining what that period is.

Radio New Zealand has another governing force, a charter unique to it as a public radio broadcaster in New Zealand. The existing charter is now under review, but its core requirements will be little changed.

In this forum, there are two key parts of the charter that need to be acknowledged. The first is that it requires fairness from the organisation, and respect for the truth. The second is that it requires Radio New Zealand to provide 'comprehensive, independent, impartial and balanced national news services'.

As journalists, and as broadcasters, we can have no argument with these laudable goals. But how do we ensure they become reality?

Radio New Zealand has tackled the issue by researching and producing an Editorial Policy Guide. The production of this seemingly straightforward publication represents a huge amount of work but provides a unifying editorial policy for the whole organisation, not just the news division.

The guide's core principle is quite simple – I will quote from one of the introductory paragraphs: 'Radio New Zealand has a duty to ensure that its programming is fair, accurate and balanced.' The guide is also clear on a person's right to refuse to participate in a programme or interview. But it is also clear that this should not normally act as a veto on a story.

It is one thing to have these lofty aims, but transmitting them to the frontline journalist or producer on the ground is a never-ending job, carried out by my deputy, Editorial Policy Manager Terry Brown. Every Radio New Zealand staff member has been issued a copy of the guide, every new arrival gets one along with a briefing on its importance.

As a result of all this legislation, independent scrutiny, the charter and robust internal controls, does Radio New Zealand achieve its goals?

I believe it does, most of the time.

I recently took a phone call from an aggrieved listener, complaining that a story about superannuation and retirement savings on *Morning Report* an hour before was too left wing. The call came while I was answering an e-mail complaint that the same story was too right wing. Both listeners were convinced their view of the story was correct. However, if the story had properly canvassed the available facts of the matter, there was a third option: perhaps it was just fair and balanced.

As I approach my 30th year in journalism, I know the subject of superannuation is certainly within my 'period of current interest'.

Mark Sainsbury
Thanks, Don. Now, there will be time at the end where there's going to be a panel discussion and a time for questions as well.

I suppose one of the new entrants into our market is Māori Television who don't, as an organisation, have any history of activity or anything else with the Broadcasting Standards Authority. So it is quite a unique perspective that Tawini Rangihau, who is an old colleague of ours from TVNZ, brings to it from her position as Head of News and Current Affairs at Māori Television.

Tawini Rangihau
Kia ora rā, tēnā koutou. Tēnā tātou kua tau mai nei ki tēnei hui. I'm acting under instructions from our Chair who said, you are of course going to present for twelve minutes in Māori and make sure that it's fair and balanced. And I thought I would, but then that defeats the purpose of this symposium.

For us, balance and fairness comes out of years of experience in being able to debate questions and views robustly over a number of years. We are the new kid on the block, and at the moment part of Māori Television's role is pushing some boundaries because we tell our news in our language, because we are the Māori news, not the news in Māori. But then that gives organisations like JTO [Journalism Training

Organisation] and a few media institutions some gaps in our training where there are no precedents written about how to craft or tell a story in Māori.

Increasingly where we find ourselves as a news provider, is that more and more Māori will come to us to seek fairness and some right of reply to stories that have been told by mainstream broadcasters, where they don't feel that they have been represented fairly, they don't feel they've been represented accurately. So they come knocking on our door to give their view. Now, they don't demand balance, but they do expect fairness and impartiality.

One recent complaint I received – not in writing, but a comment passed by a prominent elder from the East Coast who said, 'Increasingly mainstream media thinks there is one opinion to fit all Māori. That it is enough and sufficient to go to one Māori person to get a point of view'. Increasingly, Māori begin to debate among themselves this question, and whether they agree or disagree with the popular view. But what happens is, the debate is not reported, and the reasons for the debate. So, Māori audiences will look to Māori Television to represent the widest collection of views. Whether it's current or not has no bearing on their wish to be treated fairly and impartially in some of their stories that are being told.

Now, some of us have what is called 'a slow news day', so watch out what might come out in the newspapers in mainstream media. Because invariably a slow news day means there is a controversy somewhere, or there will be a controversy about Māori stories or Māori communities and what's happening there. Sometimes the stories are not always current, but because it is a slow news day it can be made current. Sometimes the incident might have happened two, three months ago. It's a slow news day, it's a slow news week, a slow news month, and so let's find a controversy, because at the end of the day news is about selling newspapers, ratings, getting an audience, and what will

get you an audience is invariably some controversy among separate communities within New Zealand. I'm not saying that we're picked on, but I am saying that where there are holes in news days that some controversies are picked up for that reason. Not because they are current. We all know, as managers of news, we can make anything current in the way that we tell the stories, and sometimes we do this. That's fine. We're all professionals in our work, and we all do it. I think the thing is to admit that we do it.

For Māori Television, increasingly we're not just accused of unfairness or unbalanced reporting by viewers, but also by some political parties. Sometimes the view that we express doesn't suit the political opinion of the day. So we have been labelled as 'Māori Television for Māori Party' by other Māori in politics, it suits the time of the day, and that's not always been an accurate or correct point of view. But we have to wear all of these. Someone is always going to be hurt by a news story or the way that a story is told, and we have to balance those up as well.

The prominent elder that I was speaking of really had a view that we should be reporting news which is positive news about Māori communities. His view is that you watch mainstream news, and invariably there's very few positive stories about Māori communities, and so they look to us to balance that out. To tell the positive stories which are not reaching the national news. But we can also argue that we're not the positive channel for Māori either. We are a serious broadcaster. One of the things I felt was unbalanced about the Minister's presentation this morning is that Māori Television wasn't on his broadcast landscape. We didn't get a mention today. In the Minister's view there are two national broadcasters, Television New Zealand and TV3.

As we move forward and develop as a television news agency in a language which is not the dominant language of our country, we are increasingly going to have to push some boundaries and develop some

ethics, journalism ethics, in Māori. There are some stories currently told in Māori which actually come very close to the lines of unfairness, of inaccuracy, are almost libellous and scandalous. They're being told in Māori. They are not being picked up because increasingly we're not an iwi who will take these problems to a public body to debate them, but they are debated widely in marae, and we do expect over the next two or three years that those debates will come to Māori Television. Māori will have a wish to get these debates out to a wider audience that they may understand all points of view. There is a wish, a great wish, out there by many Māori, to have the different points of view represented in a fair and balanced manner.

I can put my hand up and say we haven't had a complaint put to the BSA in terms of our news and current affairs. We had one case referred to the BSA about bare buttocks [in kapa haka] shown on our schedule during children's time – that it was an inappropriate vision for children seeing bare buttocks on television. Now this is a haka, and it is very much part of our culture, and a lot of those children actually do understand the bare buttocks. The BSA did not uphold the complaint.[7]

The other complaints have not gone as far as the BSA. The complainants have been satisfied with the answers that we've provided them, and they have not taken any complaints further. But, it's going to happen to us, and dare I say, when it does happen, it is a sign that, 'hello' we are there and we have made it out there to the wider mainstream media, making some impression and making people comment – and if that is the purpose of news, hey, we're out there.

Mark Sainsbury
I do think, though, the fact that the views expressed on Māori Television do not suit the political views of the time, is something which all of us share, you'll be pleased to know.

[7] BSA decision no. 2005-064

Someone who has had a lot of experience with that over the years, after a very long and distinguished career at TVNZ – he's also the creator and producer of the *Agenda* programme and also produced the election programmes last year, someone familiar to all (of course he's bound to have very moderate views on this particular topic) is Richard Harman.

Richard Harman
I guess we get a measure of how challenging the concept of balance is to any organisation by the fact that no opposition speakers were invited to match Mr Maharey here today. And in my experience, I have to say, it is generally the opposition MPs who want to talk more about balance than government MPs.

Back in the 1980s, or late '70s and '80s that Paul Norris was talking about, Neil Roberts [former TV producer] once got into an argument with Ian Cross [former Chairman, BCNZ] and said that if you took the logical extension of Cross's definition of balance to its illogical extent then Adolf Hitler should have been given equal time with Winston Churchill during the Second World War. That came at a time when Cross had decreed that if we were to cover the Springbok Tour of 1981, it was necessary that we balance the coverage of HART, the Halt All Racist Tours movement, who were organising the mass demonstrations, with coverage of a pro-tour organisation. Unfortunately, there weren't any pro-tour organisations, but someone did manage to unearth a group of enthusiastic advocates of the tour in Hawke's Bay and they got an extraordinary amount of air time. So much so, that their leader, a chap called Robert Fenton, was elected later that year as a National MP.

And that, in my experience, goes to the heart of the problem with balance, in that it tends to construct news. If all of us think back to the kind of people who complain about balance, generally speaking – I mean, I seem to have seen an inordinate number of complaints over the years from organisations that support the IRA, or the Palestinians, or

who get involved in the abortion debate; mostly, if I may say so, fringe political issues with fringe political organisations who use balance, or have tried to use the balance standard, as a lever whereby they can get themselves into the news.

As a producer working largely in political journalism, I don't actually even know what's in the BSA standard on balance. I don't bother about it. I go back to Paul Norris's concept of 'due impartiality. If you're doing a journalistic job then every instinct in your body, theoretically, should be directed towards fairness and accuracy. If you do that, you don't need to worry about artificial constraints of balance.

During the final TV One *Leaders Debate* during the election campaign last year, we put stopwatches on all of the participants, and two things were immediately apparent: one, that by the end of part one Winston Peters was ahead by about four minutes, and two, that Rodney Hide, surprisingly (although if you watch *Dancing With The Stars* this may be explicable), was behind. And I went to Rodney, because Rodney is a vexatious litigant in my view, and said 'Look, you're behind on time'. Now, Rodney had working with him an Australian political consultant called Ian Cortlang who's a very sophisticated operator, and who had briefed Rodney not to worry about the time, that what mattered was the quality of the intervention. So I thought it was quite exciting that even politicians as litigious as Mr Hide are beginning to move away from those kind of narrow definitions. We had no intention of doing anything about it anyway even if he had complained, but that was beside the point!

I think the more challenging issue that we all face is the way that journalism, and particularly television journalism, is changing. What we're seeing around the world now is the development within the fragmented media environment of what I would almost call point-of-view channels. Aljazeera is an obvious one. This new channel that Al Gore has set up. And in some aspects Māori TV fits into this category as

well. Increasingly it seems to me, that rather than looking for balance and regulation inside a network or inside a programme or inside the television industry, what we ought to be looking for is a diversity of voices that can play in that public space that is the television stage. I'm not sure that in New Zealand we have the mechanisms in place to ensure that. For example, is it appropriate that the State should own two channels? Is it appropriate that a major radio broadcaster should own two channels? Is it appropriate that the pay TV operation should also own a free to air channel? If we are to have a diversity of voice in this country, we need a diversity of access as the media continues to change and fragments more and more. It would seem to me, that if we're going to talk about balance and significant viewpoints, and making sure that we hear every voice in the debate, the only way to achieve that in the future is actually by making sure that we have a diversity of channels. That we have more Māori TVs, that we have a New Zealand Aljazeera, or whatever, because the days of regulating a programme are rapidly coming to an end.

For example, we've just started streaming our interviews on *Agenda*. So you can sit in Washington and you can watch the same interview, the same programme that a New Zealander can watch, but under different rules. We've had one of our interviews picked up and run on a campaigning site in America. And that's going to happen more and more, interviews are going to be picked up, they're going to be run on telephones, they're going to be run on that big screen in Courtenay Place in Wellington, they're going to be run on the backs of seats in aeroplanes, and that is the issue we've got to address in terms of all broadcasting regulation; and what we need to be looking towards is the diversity of voice because diversity of voice is actually the fundamental philosophy behind balance.

DISCUSSION

Mark Sainsbury
Just before we take any questions, is there an agreement amongst all four of you – is the concept of balance then totally irrelevant?

Bill Ralston
Less and less relevant. If you pick up on what Richard's saying, and I tend to agree with him, in the sense that balance is achieved throughout all media and new forms of media. New media is not bound by anything other than the law, why on earth is broadcasting subject to the BSA? It's odd, and it's an anachronism.

Mark Sainsbury
But the fact is that we do have the Act in place, there is a mechanism there, Don. Do you subscribe with them, that this preoccupation with balance is not necessarily workable, and if so, how do you deal with the system in the meantime?

Don Rood
Not necessarily. Balance is such a difficult thing to define and if we remove that what do we replace it with? Accuracy or truth? They are hard to define as well. Sometimes a story has to be told, and it's not going to be fair to the person it's about, it's not going to be balanced. But it has to be told. The public has a right to know these things. And I think that is the underlying core of what we're driving at, that the public has a right to know, and we have a right to tell that story, then it should be told.

Mark Sainsbury
Richard, what would you suggest as an alternative?

Richard Harman
My fundamental alternative is that we scrap the BSA, we scrap the whole regulatory process, and we look towards a process which ensures that there is a diversity of ownership and a diversity of view in New

Zealand broadcasting. But if we must persist with this organisation, and I sincerely hope we don't, then I would have thought that some of the definition that Paul Norris gave where we talk about a 'due impartiality' – I mean what you want is a standard that is broad enough not to be prescriptive. It worries me that we have regulators sort of sitting on the shoulders of editors. I don't like it.

Mark Sainsbury
Richard for you – in terms of that 'period of current interest' – doing a weekly show, you don't have the same flexibility that Tawini, Don or Bill has, in terms of redressing something the day after, or within a period of a couple of days.

Richard Harman
We haven't had a single complaint on *Agenda* about balance. We've had complaints on other things but not balance. And *Agenda* is heavily unbalanced. We don't even worry about it. Anybody who watched last Saturday would have seen Annette Presley taking the stick to Telecom in a most irrational and unfair manner, but it was quite fun. It just seems to me that the people who are watching these programmes have become more sophisticated. I find, generally speaking, that complaints about balance tend to come, and this goes right back to Steve Maharey's point, tend to come from people who either weren't in programmes, or who were in programmes and felt they got a raw deal. You don't get a lot of complaints – and the BSA may not agree – but you don't get a lot of complaints from viewers about balance.

Bruce Wallace (Television Broadcasters' Council)
I just wanted to question the panel about a thought that Paul Norris left us with. Really serious journalism these days, about some pretty serious issues related to terrorism and so on, is actually about trying to find out where the extremes are, and getting those extremes on television and on radio. Getting those views into mainstream media … I'd like to hear the panel's point of view, for example, if there was an al-Qaeda spokesperson in this part of the world, and that person was

available for an interview, would you be prepared to run that person at length, and how would you balance that interview?

Bill Ralston
Well, it depends again on the context in which we're talking to that person. You wouldn't go there as a knee-jerk reaction all the time, but I'd have no problems carrying him, whether in *Close Up* or news or whatever. As balance, if he's talking about US foreign policy, I would look for a US commentator to advance their position. If it was about Australia, if it was about New Zealand, you would try to go to the relevant politician or spokesman.

Mark Sainsbury
Does it mean that every time you have someone presenting a unique point of view, they have to be counter-balanced each time, or can you say this is a unique opportunity to hear one side of a debate we haven't had up until now, let's have a listen, and we don't necessarily have to balance it off?

Don Rood
I understand what you're saying – do we draw these lines? It goes back to what Richard was saying about the Springbok Tour, and Adolf Hitler. Do we interview them? Do we put his point of view? – I suppose before 1939 he had ample time to put his point of view.

Mark Sainsbury
Tawini, you were saying that people come to you because they feel their point of view is not being either accurately portrayed elsewhere, or they don't get a voice – do you see Māori Television as an avenue for views that are maybe wider than the spectrum we see on other media?

Tawini Rangihau
Yes, we would have that [person] on because in terms of providing opinion and programming for our audience, we owe it to them to get it

straight from the horse's mouth … we don't always follow mainstream media because it is still available to our audience. So we try to stay away from those [mainstream] stories, but that's not to say we wouldn't have a story about al-Qaeda or go there for a point of view.

Bill Ralston
From what I've seen of Māori Television you're more likely to go to moderate middle-of-the-road opinion on Māori issues anyway, while the mainstream media tends to go the extremes. You guys tend to come straight up the middle.

Richard Harman
We've just run a fourteen minute interview with the Iranian Ambassador which we didn't attempt to balance at all. You've got to get back to that famous editorial in the *Times* in the nineteenth century, where they said that the duty of this newspaper is to present the first and most correct intelligence of the events of the day. If you stick to something like that, get it first and get it right, then you'll certainly go and interview al-Qaeda.

Robert Boyd-Bell (independent producer)
I just wanted to comment again on what Bruce is saying, that we forget that New Zealand is changing. I went to Robert Fisk's talk when he was here in Auckland … and there was a very strong body of quite active, young Islamic Muslim students who are very outspoken and very strong and very forceful, and they are here and you don't see them in the media.

Keith Hunter (independent producer)
Do you really need to provide a balancing point of view if you are aware of a prevailing public opinion? I mean your al-Qaeda person, if he comes in and he says what he likes, do you really need to balance that when you know that there is a prevailing public opinion which doesn't need that balance? The same goes with your Hitler, and all these other examples.

Joanne Morris (BSA)
Putting my head in the lion's mouth here … about the period of current interest, and taking on board what you said about it seeming to be arbitrary at times how the BSA would define it, and taking on board your point about stories unfolding over a period – do any of you believe that there are some stories that require a faster response, faster delivery of the unfolding story than others in order to get all the points of view in the period of current interest? And what do you say to the point that if you wait too late to get the full story – what happens to the rule about accuracy? Aren't you misleading people along the way?

Don Rood
I don't believe you are misleading people. It is the duty of news [providers] to get it first and foremost, get it to the public. The stories will change and develop over time. No story is an absolute when it first emerges or possibly even when it ends. So our first duty is to get things out as soon as possible, and we can break into programmes to do that if it's of such magnitude.

I think that we've got it right. The period of current interest is very hard to define. If you take it from go to whoa when it's settled, unravelled, I think we usually cope with that well. It's when an attempt is made to define it into an arbitrary 'this week, this day, this hour', that we run into trouble.

Joanne Morris
I gave the example before of the euthanasia issue – the BSA has said the period of current interest on that is open, it keeps going. But some things do seem to flare and die very fast, and it's true to say that we have said the period of current interest is shorter in some situations. But Bill says it's arbitrary. Tell me more. What do you think? How do you determine these things?

Don Rood
It's finally getting the answers that you want. There is a conclusion to the story… I do take your point that there are some issues that go on and on. Probably Palestine is one of them. Vaccinations. Fluoridation. They're hoary old chestnuts – they'll keep coming back.

Mark Sainsbury
So it's just a judgement call in the end? I suppose the advantage that the BSA has if it is going to define a period of current interest, is that it is doing it with the advantage of hindsight. Whereas, on a day-to-day basis you have to look at a story and decide whether it's going to run for substantially longer and we will be able to canvass other viewpoints over a period of time. What triggers the decision to think 'we'd better get this dealt with smartly'? Is that just solely a judgement call?

Don Rood
If we were to wait, say, for a week, and nothing happens, and say that's the end of the story … no, it's got to be when there is an adequate answer, an adequate conclusion to the story. We can't just leave it hanging there.

Bill Ralston
You've also got audience interest too, which tends to die before editorial interest does.

Mark Sainsbury
I was just wondering if I can ask you, Tawini, because we were talking before in terms of MāoriTelevision, and a lot of this discussion, the issues we are talking about of balance, accuracy, and fairness are ones that, as journalists, we regard as the first principle in any case – are those journalistic ethics as they are applied, do you think, applied differently within the context of Māori Television than mainstream television?

Tawini Rangihau
No they are not applied differently… But how we tell the story will differ because of the language that we're using. But the ethics of journalism are the ethics of journalism in whatever language you're reporting in.

Mark Sainsbury
I suppose that's coming back to one of the comments that was made right at the start about the concept of balance as seen from a Māori perspective…

Tawini Rangihau
Balance is: you have all points of view and they're all put out on the table. We can't always do that, otherwise we'd be having news 24/7.

Bill Ralston
That would be a good idea.

Jim Tucker (Journalists Training Organisation)
Tawini, you made an interesting comment that 'currency' is not so important for some of the stuff that you do. I was intrigued by that. Can you elaborate on that for me?

Tawini Rangihau
Not that it's not so important, but that again, as managers of news, currency is really up to the news managers. They can determine a period of currency also. News currency is not always as it's happening. Sometimes we can anticipate that it's going to happen tomorrow, or it happened two weeks ago, and we are only just beginning to get the facts of a story. Sometimes we don't record it at the time because we don't always have all the facts, so we have to determine not just when it's happening, but when we have all the relevant facts to be able to tell the story, otherwise it becomes hearsay or it's just a piece of interesting gossip.

BALANCE AND CURRENT AFFAIRS/ DOCUMENTARIES: 'CONTROVERSIAL ISSUE OF PUBLIC IMPORTANCE'

Bill Francis, **Newstalk ZB**, Keith Slater, **TV3**, Keith Hunter, **independent producer**, Paul Patrick, **TVNZ**

Chair: Mark Sainsbury

Bill Francis

In talkback radio programming there's no great credence placed upon balance despite the fact that controversial issues (not necessarily of public importance) are frequently aired.

What happens is that across a 24 hour cycle, or even a week by week cycle, many factors come into play that allow natural balance to occur.

Firstly, there is the open line aspect to talkback that allows another point of view to be aired.

Secondly, the intrinsic differences in the views and opinions of the hosts tend to create a balancing effect across a day (although some may disagree with that, based on the fact that NewstalkZB is sometimes considered to have a line-up of hosts to the right of Genghis Khan).

It is not our job in the talkback segments of our format to create balance.

Our job is to create interesting, stimulating conversation that attracts listeners. But if we are too far out of whack in balance then we risk alienating the audience and therefore putting our business at risk.

While the labels of left and right are pretty much irrelevant in today's political world, conservative and liberal still apply, and we happily go along with a more conservative (or right-wing) approach from many of our hosts because, pure and simply, that's what works – although radio stations still carry a wide range of stances and attitudes from hosts across a day or week.

I should add that the start-up of liberal/left-leaning talk stations in the United States two years ago has resulted in a ratings disaster.

What I'm saying here about a conservative approach to talk radio is that it does not preclude other views, it's just that right-leaning hosts seem to have a better strike rate at getting the lines ringing.

A talkback time when I do take a greater interest in balance is during election campaigns. Here there can be problems with hosts' political bias, and with political parties encouraging their members to ring talkback shows. I've seen party newsletters listing the talkback number of our radio station, encouraging their members to ring with certain messages.

Generally during elections the outraged feedback from both sides of the political spectrum indicates that we are not too far off where we need to be. Hosts, anyway, know that they have to walk a line of reasonable balance.

The audience know how talkback works, they know that rectifying balance is in their own hands – all they need to do is ring the radio station. Their view may be rubbished by the host, they may be cut off early, but they do get to air and they do help create balance.

When it comes to political stories, whether contained in news or programmes, we have no great desire to run balance. But we know that half our audience is Labour and half National, so good sense prevails in how far we get away from balance.

Recently in the Prime Minister's spot with Paul Holmes, she slagged off Judith Collins and her actions at the powhiri debacle. That afternoon I received a faxed letter from Judith Collins, demanding a retraction, saying it was defamatory and what were we going to do about it?

Answer – nothing.

Not only had we run news stories giving Collin's version, but she had been interviewed later in the morning by Leighton Smith, disputing what Clark had said.

I didn't even bother replying to the letter – it was pure and simple political cut and thrust and the natural course of events had created the balance required.

This underlines the radio business of 24 hour news coverage. To keep a story running and to cover off all the angles, it's automatic that balance will come out of this.

So if you make the extension to controversial issues of public importance, balance will certainly be achieved.

And what are controversial issues of public importance?

You could argue for certain court cases (Peter Ellis); some of the religious controversies; desecration of Jewish cemeteries; virgin in a condom; the recent civil defence debacle; racial matters. Many people would argue that the dropping of an All Black captain is a controversial issue of public importance.

Recently Ian Wishart got lambasted in some quarters for not contacting David Parker on his *Investigate* story. This was Wishart's right (although probably not journalistically ethical). Why shouldn't that right apply to radio and the way it covers controversial issues? As I mentioned earlier, your audience is soon going to tell you about a lack of balance and you'll suffer the consequences if you've been blatant in the omission.

We regard it as our journalistic responsibility to get both sides of a polarised story. We want responses to stories, statements and comments that are clearly one-sided. We do this despite not being impeded by charter provisions such as those Radio New Zealand must adhere to.

The problem with balance is that a broadcaster's view of it is different from that of the public, particularly the older audience. Some public perception is that if both sides aren't presented back to back there is no balance. The media – newspaper, radio and TV – has always taken a longer-term view. Journalists have never had a problem with balance. Their training requires them to seek it, their sense of justice requires it, and the need to continue a story also requires it.

What has changed is the area in which 'news' is relayed.

The public has become convinced over a long period of time that journalists will be impartial and opinion will never intrude into their news, unless there's a big neon banner across it warning that opinions are included in this piece. It's become a mantra repeated by people who no longer understand where it began.

Our news is no longer produced by a government department; it comes from companies which exist only to make money. They make it by gaining audience in their own particular media niche. If the audience doesn't like it, they will find another source, the company will lose money, and things will have to change.

24-hour TV news stations, newstalk radio, commentary programmes, podcasts and blogs, are all designed to enable cross-pollination of comment, news, views, opinions, and stances.

Audiences are constantly telling governments they don't need to be spoon-fed, don't need to be told how to think, what to think and when to think it. At the same time, there are agencies which continue to tell the media the audience is incapable of independent thought, sorting wheat from chaff, holding a thought for more than a minute, or operating a bullshit detector.

That's the anomaly of a balance code. It no longer matches life in the real world.

Broadcasters and publishers are not going to ignore the concerns of an audience if there's a string of complaints about an issue or a columnist, reporter, commentator or host. They will have internal procedures to ensure the impact is mitigated, if only for business reasons.

Even worse is the imbalance between audience and complaints. One balance complaint from one member of an audience as big as 250,000 people can create a situation of confrontation, with the BSA ignoring the lack of reaction from the remainder of the same audience.

The perception of balance is probably one of the most difficult to define or lucidly argue. At least, other forms of complaints can be more objectively considered.

The Radio Network handles 50 to 60 formal complaints per year (a reasonably modest number considering the robustness of the format – although it rather shot up three years ago after a certain Paul Holmes broadcast). In recent years complaints under principle 4 [balance] have markedly decreased to being few and far between because complaints have failed to be upheld, based on the points I've outlined.

It seems for commercial radio, balance as one of the principles in the radio code is now largely irrelevant.

Mark Sainsbury
Thanks, Bill, and of course there will be time for questions once we finish.

A controversial issue of public importance and the whole issue of balance is, sadly, something that Keith Slater as Head of News from TV3 has grappled with many times over in his career. Keith, over to you.

Keith Slater
The first time I spoke to the BSA was many years ago, and I took the rather extreme position that the BSA had no real justification for its existence. That the only test was the market place, and that's where

it should remain. I am still somewhat of that view, but I am realistic as well and accept that the BSA essentially is here to stay, although I wouldn't really want to see it stay in its absolute current form.

As I go through my day-to-day work and think about the various standards and the legislation and the Act, I almost inevitably ignore standard four [balance] in my decision making. What I do concentrate on is standard six, fairness. And it would be interesting if the BSA were to be of the mind to look at how many times they have subsumed the requirements of balance into fairness. It would be more than once or twice, I would suggest, and that indicates to me that the real standard that broadcasters should have in news and current affairs – I'll leave programming and docos and factual programmes to one side – the standard should be that of fairness. We know what it is – you know, as a broadcaster, if you've been unfair. We don't really need anymore than that.

We certainly don't need this concept of balance, and as other speakers have indicated, it's an awful thing to try and define.

There are a couple of cases that I think about a lot. One is 'Corngate', about which there were two decisions, on fairness and balance.[8] I can sort of understand the thinking behind the BSA's decisions and don't overly criticise it. But it's interesting that a politician of such standing as Helen Clark, who's so good on her feet – if she couldn't cope with that interview, then she shouldn't be there. I'm sure she had the facts. I'm sure she knew what was going on. But up comes this complaint, and consequently it was upheld.

Another one which I was interested in was the foreshore and seabed debate,[9] which I was intimately involved with, and I've got some strong views on that which I don't need to go into here. But that was a

[8] BSA decision no. 2003-055-061

[9] BSA decision no. 2004-140

situation where they subsumed fairness into balance. I made my point that if you've got fairness there as a test, you don't really need that standard four of balance.

The other area I want to touch on is the question of interpretation. In this business, particularly current affairs, everything is about interpretation really. The arguments can go this way, that way – it's a matter of opinion. I find it difficult to try and reconcile things as prescriptive as the codes and indeed the Act with these questions of interpretation.

Over the years I've watched with interest the decisions from the BSA, and I actually think [the standards] were designed at a time that is now almost another age. Media has moved on so far, that perhaps it's time to look at changes.

Before I talk about that, I should make the observation that it's almost by a process of osmosis that the BSA has had a profound, and I think beneficial, effect on how broadcasters, news people, and editors make their decisions. We do, almost by second nature now, make our decisions with all of that in the back of our minds. I don't think that's a bad thing.

But media has changed. It's moved on, and the BSA should change and move on as well. Firstly, by getting rid of that balance standard, and that would require, obviously, a change in the Act. Whether there's a political will to do that, I would be surprised, but nevertheless that's my view.

So what is the alternative? Well, I go back to a little mantra I use. What is a programme? What must it have, particularly current affairs? And there are three things: consistency, accessibility (ratings), and credibility. But the greatest of these is credibility, and this is also what Bill [Francis] was touching on. If you annoy your viewers, if you disenfranchise them, ignore them, it's going to affect your credibility. It's going to affect, eventually, your ratings, and we all know what happens then. So that, to me, is a guiding principle.

The other thing I just want to mention quickly is a lovely phrase from a broadcaster, a wonderful editor, Ian Cook, formerly of Channel 9, now of Sky. I had reason to give him a call and we were discussing things, and his new position at Sky (24 hour news), and he came up with this wonderful phrase: 'never wrong for long'.

I conclude by saying, is it time now to look at a process of self-regulation? Broadcasters have changed a lot over the years. They've matured. They are independent. Essentially commercial. We've seen it work quite effectively with the Advertising Standards Authority. The Police Complaints Authority. It should be looked at. There's a will within the industry for such an organisation, and I don't really think, that even in an 'arms-length' way, government should have a role in controlling broadcasters. Such a body, a self-regulatory body, would be at arms-length. It would have transparency, it would have accountability and certainly a sense of independence. No disrespect to the BSA, the perception is a lack of independence, and often perception becomes reality.

In closing, thanks to the BSA for putting up all these decisions which have been beneficial to us. Good work, but I think it is time to move on.

Mark Sainsbury
Thanks, Keith. We're now going to hear a perspective from someone whose experience with the BSA has probably been more satisfactory.

Keith Hunter is an independent director. He did the Scott Watson documentary [*Murder on the Blade*] which was the subject of a complaint.[10] He's also taken a complaint himself.[11] This is someone operating off his own bat, outside of the walls of the large organisations that the rest of us work for.

[10] BSA decision no. 2004-127A

[11] BSA decision no. 2004-158

Keith Hunter
There are a few things I'd like to say about issues that have been raised, very briefly. It seems to me that my job as a journalist is to seek and find and tell the truth. That is what I believe my function is – not to be balanced, but to be unbiased. It is to distinguish between bias and informed attitudes or informed opinions.

When I look into a subject it is to gain an impartial view of the facts, then I present what has occurred to me as a result of that analysis in a programme.

Murder on the Blade was accused of being unbalanced – which it probably was unless you look at what balance means. Are we talking about a programme being balanced or being seen to be balanced? That programme was seen by at least one member of the Broadcasting Standards Authority to be unbalanced. The decision in my favour was not unanimous. I'll refer to some of the things that the dissenting voice raised later on.

So the issue becomes at what point do you discover, or contribute, the balance or impartiality? In my view, in the programme *Blade* I took an impartial view of the evidence. I read it all (and it's a huge chore, no-one else except for Scott Watson's father has ever done that, so he and I are the authorities in terms of knowing what the facts are). When you read the facts, you realise that it is impossible to come up with another view [from the one taken in *Blade*]. So I'd like to take you through the trip that I went on to present the piece [*Blade*] as a personal opinion.

First of all, if you have a good look at the Act, it doesn't require me to supply balanced programmes. A broadcaster supplies balanced programmes. Now, I'm not a broadcaster, I'm a programme maker. I think you knacker me when you want me to make a balanced programme – it's the broadcaster's function, and in this case I had the broadcaster's promise to make a balanced presentation of the facts. I had that as a guarantee. It wasn't my function to make a balanced programme.

However, NZ On Air thinks it is because my contract with them said the producer covenants with NZ On Air that the programme will comply with the programme standards specified in section 4.1 of the Broadcasting Act 1989 – which we all know because we've read it many times. That says that broadcasters have to present balanced programmes. Broadcasters in the Broadcasting Act are the people who broadcast. I'm not a broadcaster. My function is to supply programmes which in my view supply the truth. And that is what I attempt to do. So it seems to me that this discussion should be directed towards broadcasters, and not towards programme makers.

Going back to *Blade* – I suspect that when anybody makes a documentary, they have a view, which is hopefully informed impartially by the facts that they've come across in their research. Hopefully. If you don't have a programme maker like that, you shouldn't be dealing with him, you should get somebody you trust.

Now, I presented a proposal to both TVNZ and to the Broadcasting Commission [NZ On Air]. It was a proposal which told what the film would say. It didn't say at any time 'I'm going to balance this, and get the police to have their view of it, and the prosecutors to have their view'. I didn't say that. It said, 'this is the story: the story is that Watson didn't do it for these reasons'. Now, I didn't say it was going to be balanced. (No-one says I have to make it balanced except NZ On Air, and I don't know why they do that. There's no legal basis for them to do that, it seems to me. They're not responding to the Act.)

As for TVNZ's contract, and these are the things that impact upon me as a programme maker, it doesn't mention anything to do with the Broadcasting Act. I don't have to do anything. It mentions I have to be aware of the Health & Safety and Employment Act 1992, the Code of Practice Safety and Health, the TVNZ Technical Documentation Standards, but nothing to do with the Broadcasting Act – except when you get to clause 16c, which is interesting.

I have to say that I had a good time from TVNZ in the contract because they didn't make me, as they normally do in the standard contract, indemnify them against legal issues. The standard contract says you indemnify the broadcaster against any legal action, and if a lawyer breathes in the air, you pay for it. That's in the standard contract. They took that out which was really, really kind, and they took care of my legal fees.

But there's one interesting thing they left in: if the Broadcasting Standards Authority laid down a decision that TVNZ had to follow and if it cost them money, I would have to pay them back any costs they had. However, if the fault was as a result of TVNZ insisting on something going into the programme, and if this was the cause of the BSA's decision, I would only have to pay half. You work that out if you can.

So that's my only contact with the Broadcasting Act, with the requirement for balance, or anything else to do with all these good things you're supposed to do in programmes.

We get to the acceptance of the contract. At first it was turned down because TV3 was making a Scott Watson documentary and I had to wait for that to go by before they'd even attend to my one … it took forever. And then they said yes, and I started to film in January 2002.

After the first shoot, which was a week or so in Picton, I came back and I started to think about where to go from here. I realised that there were so many questions that needed to be put to the police, so many questions that needed to be put to the prosecutors, so many extraordinary questions that needed to be put to the Courts Department, in particular to the Court of Appeal – that if I followed through all of those things that needed to be done to properly elucidate the issues, I would not have a film…

… I needed to talk to [Detective Inspector] Pope … Now the problem when you go to somebody like that and interview them, and then don't put the whole interview into the story, then you've got trouble. That has happened to me before with the police where I've interviewed policemen, chosen what I thought was relevant, put it in, and the next thing you know you've got a complaint to the Broadcasting Standards Authority: 'he didn't use all my interview'. So you're over a barrel.

I was stuck in a situation … and the truth is that there's no evidence against Scott Watson, none – I'm sorry, there were two hairs that appeared after two months when they weren't there in the first place, there were two secret witnesses in prison, one of whom retracted and the other who got a tenuous sentence reduced to nine months, and a key witness named Guy Wallace who said 'you got the wrong man', but who had said at the time, 'I think that's his photo'. That's the only evidence against Scott Watson. There isn't any more. None. He's in prison on the basis of those three pieces of evidence, which are now one and a half because Guy Wallace has retracted. One of the prisoners has retracted. We've only got the hairs that weren't there at the start, and a prisoner who is now bankrupt after a lifetime of crime.

So what I did, after the first shoot, I emailed TVNZ's commissioning editor and said this has to be a personal point of view or else it won't go. It can't be made. I need to present it as a personal point of view to make that clear.

TVNZ's initial response was, 'who are you to present a piece?' That was the response to my argument. So I went back and I kept shooting, both ways, one with me presenting the piece and one without me presenting the piece, and waited. It was a month into our cutting schedule when the new regime headed by Tony Holden finally said yes, it's a good idea, it has to be done this way. So for the first time in thirty years I stood in front of a camera, and I made my piece.

Another thing which helped to give the film the credibility that I think people look for in these sorts of things was that I determined right from the beginning that any statement I made that quoted something from the case, I would attribute it. Right through the entire piece, if somebody made a statement, or I quoted somebody's statement, it was attributed: 'This was a document and it was made by this person at this time on this day' – to give the piece the feeling that this was not somebody who was making it up, 'here it is, it's all out of the record'.

The other thing that I got from TVNZ, which didn't eventuate, and which was a key issue for me, was that I was told that the News and Current Affairs department would follow up the issues that came out of the case about the police, about the prosecutors, and about the Court system. I had great confidence that this would occur and so I communicated with the News and Current Affairs department and told them if you need any information, need to know what the questions are going to be, the issues, I'll give them to you. But I was told that wasn't necessary.

After the programme went to air, the News and Current Affairs department didn't do anything, and when I enquired as to why that was I was told it was because no-one else did anything. So TVNZ's News and Current Affairs department did nothing because no-one else did. I thought that was a strange editorial decision. However, the outcome for me was that I was hung out to dry in terms of the Broadcasting Standards Authority because it looked as if I'd made an unbalanced programme and no-one gave a damn and it stayed unbalanced.

… Turning to the other complaint. I later complained about a *Sunday* programme item that went to air a year ago, or perhaps a bit longer. It was about Scott Watson's marriage. You remember he got married in jail, and *Sunday* made a programme about it during which they made an attribution which was absolutely and totally false. It was this: they played a piece, a quote, out of their videotaped records, of a witness in the case saying that he had heard a man saying to a girl, 'I'll get into

your pants before the night's out'. And *Sunday* attributed this to Scott Watson. Now I knew the case, I knew the piece involved, and what the *Sunday* programme had not done was to read three lines later in that same piece of evidence where they would have found out that the man who made that statement had a three-inch long, brown, grey-flecked beard. Watson was clean-shaven.

The reason for that piece being brought into the case in the High Court was to show that not only Scott Watson was making these sorts of comments. It was a defence comment. And *Sunday* played this, in my view, totally in contempt of Court because they ascribed to it the very opposite meaning of what it had had in the Court room.

So here I am, an independent producer who knows the truth, and here is a TVNZ current affairs programme going out with an absolute outright lie. So what would you do? Would you keep your mouth shut? Or would you do something? I considered it was my responsibility to do something.

So I complained, and the BSA, in the end, accepted the complaint.

These are the ways that this balance stuff can impact upon a programme. It impacts upon whether I have the guts to go ahead with a film. If I have to pay TVNZ's costs in the way that you normally do – you have to indemnify them – and if I'm required to balance my films in the way that the complainants may think that I should, I can't make the films. If I have to balance them like that, a liar can hang me up for the entire programme. If I have to indemnify TVNZ. of course I'm going to be careful – we're not going to have exciting programmes. If we want to have exciting programmes, the excitement comes from the content. It's about something that's exciting that you want to know about, that does challenge. But these balance requirements that we have are so dismissive of the chance we have of making challenging programmes, that they really shouldn't be there. We should be looking at these other issues – at fairness, and considering whether what we want are

balanced programmes or programmes that are seen to be balanced, because they are very different.

Mark Sainsbury
Thanks, Keith.

[Paul Patrick, the producer of *Close Up*, spoke next. His talk was not transcribed due to upcoming court proceedings.]

Mark Sainsbury
[Referring to Mr Patrick's address] So there we have the 'live' issue of how to achieve balance in terms of what's involved with the presenter's role. We heard Keith Hunter talking from his perspective about being unbiased, not unbalanced. Keith Slater said that consistency, accessibility, and credibility are more important factors than balance; and Bill Francis, who placed no credence on balance in terms of talkback because the punters provide it.

So, are we just talking semantics? Are we just getting confused by whether we're talking fairness and accuracy, or balance?

Keith Slater
You could say it's semantics. The trouble with that is, as we heard earlier, there's a whole body of jurisprudence about balance. It is, at least as far as the BSA's concerned, a living, breathing thing. So I guess that's not semantics, it's for real.

Mark Sainsbury
You have to learn to deal with that on a day-to-day basis then, irrespective of whether you agree with it or not?

Keith Slater
Yeah.

Mark Sainsbury
Well, I think you started off by saying you ignored standard four.

Clare Bradley (CanWest MediaWorks)
No he doesn't. We pay careful attention to it. [Laughter]

Mark Sainsbury
And the talkback issue – is it possible, for a start? Because I think in the research that is coming out later on, a lot of the people surveyed said that they expect fairness and balance within talkback. But by its very nature, is that even possible?

Bill Francis
Those views would have only been two or three people, I presume. But the reality is you could take 15 calls on air, 14 could agree with the host and the fifteenth could blow those fourteen arguments right out of the water – and you've got a balance.

Clare Bradley
I have tried to run that argument … but I'm not sure if it's got legs as far as the current panel of the BSA is concerned.

Mark Sainsbury
But does that then maybe come back to election campaigns and things like that? In the old days when I first started there was the stopwatch and people looked at counting off time. But could you say, for instance, going back to Corngate, that TV3 could say: 'Well look, we gave the Labour Party all this publicity and time during the campaign. The fact that it was negative towards them was irrelevant'. So it's not just a question, is it, of balance in terms of just measuring off? It's the nature of what you include.

Clare Bradley
It's the effectiveness of the message that there are other arguments. If you're presenting an argument from a particular perspective, or you're focused on one aspect of an issue, then you don't have to cover every aspect of the issue to the same extent, but you do have to give the viewer or the listener sufficient clues that there are other significant or

material points of view – that you're not necessarily looking at in detail on this occasion, but they do exist.

Mark Sainsbury
But do we agree with Keith Hunter that if you are doing something purely from a personal perspective, saying this is where I am coming from, then a different standard of balance applies?

Clare Bradley
Yes, I think Keith's very much in the 4c. [A reference to guideline 4c in the Free To Air Television Code of Broadcasting Practice which provides some leeway for programmes to approach a topic from a particular or personal perspective.]

Next there was a question from the floor asking Keith Slater to elaborate on a complaint about the TV3 programme *Your Shore, Our Shore*.[12]

Keith Slater
The complainant was the Deputy Prime Minister, Michael Cullen. He was the architect of the [Foreshore and Seabed] Bill, and that should be borne in mind, because I find with most complaints from Joe Blow public, if the broadcaster is reasonable in the Complaints Committee, they actually get dealt with quite harmoniously, and generally the complainant goes away quite happy. A lot of the complaints that end up with the BSA emanate from people who have their own agenda, political or commercial. That's just an observation.

As far as the foreshore and seabed goes, there's fairness and balance. They weren't upheld. The one thing that was upheld was accuracy, and it's interesting. The Court of Appeal came down with a decision, a lengthy decision involving eminent judges, Sian Elias and others, and right at the start it said that the purpose of this ruling is not to establish whether there is Māori ownership of the foreshore and seabed. It then marches bravely on for another 50 or 60 pages doing exactly that. And

[12] BSA decision 2004-140

the complaint was upheld because the Court of Appeal made that bold statement at the start. We relied on the interpretation from respected legal consultants in this area, that the essence of that judgment was that, unless it's been extinguished either by sale, or by legislation, then native title must be presumed to exist. So we put that interpretation on it. Michael Cullen, and sadly the BSA, said 'uh-uh'. Sian Elias said, 'we're not going to make a determination'. I believe in spirit, and in essence, they did.

Clare Bradley
The issue was whether or not the programme had correctly represented the outcome of the Court of Appeal decision on the foreshore and seabed issue.

Keith Slater
I'm proud of the reporter who did it, Melanie Reid, and quietly I'm proud of it myself as a producer, because the piece took it very much from the Māori point of view which hadn't been really canvassed in other media. So it goes. The scars are healing. [Laughter]

MĀORI PROGRAMMING: IS 'BALANCE' A PĀKEHĀ CONCEPT?

Hone Edwards, **TVNZ**, Claudette Hauiti, **independent producer**, Willie Jackson, **Radio Waatea**

Chair: Tapu Misa

Tapu Misa
Kia ora koutou, talofa lava, good afternoon. I'm Tapu Misa and I've been a member of this 'irrelevant, past-use-by-date' Authority for three years now, whose decisions some of you clearly love. Welcome to the session which seeks to provide some cultural balance to today's proceedings.

In my three years at the BSA there has been, if not a clamour, then certainly a persistent and discernible rumble in some quarters about our broadcasting codes failing to serve Māori, and, a suggestion that the BSA ought to consider creating new standards, or adapting the current ones, to accommodate the Māori world view.

There is no doubt that there exists a deep dissatisfaction among many Māori with what is seen as mainstream media's unfairly negative portrayal of Maori. A dissatisfaction backed up by a significant body of research going back some twenty or so years.

The BSA has not been deaf to these concerns. In late 2003, we commissioned research conducted by Victoria University's School of Māori Studies to look at the portrayal of Māori and te ao Māori [the Māori world view] in broadcast media.[13] I should stress here that while the research was BSA funded, it was otherwise entirely independent of us.

The research was focused on coverage of the foreshore and seabed issue from the day the Court of Appeal decision was handed down in June 2003 to the last of the government-organised consultation hui

[13] The Media Research Team, Te Kawa a Māui, Victoria University of Wellington (2005) *The Portrayal of Māori and Te Ao Māori in Broadcasting: the foreshore and seabed issue*. BSA, NZ

with Māori in September 2003. For practical reasons, including the fact that commercial radio did not keep tapes beyond thirty days, their analysis was confined to coverage that was provided by Radio New Zealand, TVNZ, and TV3.

If you've read the report, you will know that the findings were for the most part positive. The research team concluded that broadcasting standards of balance, fairness and accuracy were generally being met by broadcasters but, and this is a significant but, they suggested that the standards as currently framed don't adequately reflect Māori reality, concerns and interest. They don't protect Māori. They said that, and I quote, 'the current standards allow Māori to be criticised and misrepresented which would be considered disrespectful if measured against Māori standards of balance and fairness'. They go on: 'In general, notions of universalism work against minority groups: one size of balance or fairness or accuracy built with the Pākehā mainstream in mind may not fit all'.

So, is there a case for a differently defined balance requirement for Maori issues and/or Māori programmes, and/or programmes purporting to represent the Māori point of view?

Should specialist channels targeted at a Māori audience be subject to different rules? If so, what kind of rules? If not, why not? If we had a differently defined balance requirement for Māori issues, what might it look like? What might it require of broadcasters? Would we have to adapt balance to suit, say, a Samoan, or Chinese, world view?

Fortunately, it's not my job today to answer any of these questions. I'll leave it up to the illustrious panel, who are such well-balanced individuals that they are willing to depart from at least one cultural rule of balance which is to allow everyone to talk for as long as they want. We have only 45 minutes, so with that in mind, I will hand over to Claudette Hauiti who began Front of the Box Productions which produces multi-genre programmes for television that have included

documentaries, award-winning documentaries like *Gang Girls*, which was named the Qantas 2003 documentary of the year, and also *Eye to Eye with Willie Jackson*.

Claudette, over to you.

Claudette Hauiti
Kia ora koutou katoa. Welcome to the most important part of the day. Before I start to speak I do want to say that I'm a bit disappointed that Māori have been left to the end of the day. That, if we're talking about balance and fairness, then Maori should be a full part, an integrated part of the day as the Māori perception is intrinsically woven into the full spectrum of media, and not just relegated to the addendum at the end of the day, and perhaps the BSA could rectify that next time.

It's true, the broadcasting standards are conceptualised from a Pākehā, western, legal and regulatory framework, and once we understand and accept that, the faster we can move on to develop more robust and sustainable standards. Standards that are based on shared and internalised views where Māori and Pākehā commonalities are built upon, and differences are examined rather than eradicated. The broadcast standards should reflect a world view that mirrors both Māori and Pākehā realities. But today of course they do not.

The broadcast standards are an internalised perception of a world modelled on Pākehā paradigms. What is controversial is determined by what threatens that very construct. It is when an issue, belief or thought or theory is in conflict with the established paradigm. The Māori language renaissance, the Māori cultural renaissance, Māori economic development, are all issues that impact on the constructed equilibrium of the status quo. All issues pertaining to Maori social and economic development are therefore deemed controversial. If controversial, it then becomes newsworthy.

In the real world, the Pākehā concept of balance and fairness is not too removed from the Māori. In fact Māori and Pākehā share many core values and morals and make very similar value judgements when it comes to balance, accuracy, fairness, law and order, privacy, children's interests, and violence. But while Māori and Pākehā share similarities, the method by which we each arrive at these judgements uses cultural paradigms and processes that are specific and contextual – therefore, often in conflict with one another. And because of these contextually specific paradigms, we sometimes will never meet up in the end. If this is the case then, perhaps the problem is not in the standards themselves, but rather, the interpretation of the standards and thus the application of the standards is contrary to the original intent, and therefore it appears the standards do not support te ao Māori. [The Maori worldview.]

If we were to define balance – its definition is steeped in subjectivity, not concept rooted in fact. A dictionary definition of balance is: 'a state of equilibrium or parity characterised by cancellation of all forces by equal opposing forces'. A state of equilibrium means a neutral state caused by two equal opposing forces. Balance takes two, not one, to make equal, therefore two opposing views. Without two opposing views you only get one opinion. Why is it then that the opposing view, and in this case we're talking about Māori, is nearly always rendered silent or minimised or eradicated, when clearly an opposing view is essential to balance?

The Māori view is holistic and encompassing of the spiritual and physical world. But a holistic viewpoint does not sit comfortably in a rigidly defined space. According to the BSA's sponsored study *Te Ao Māori* that Tapu mentioned, it found coverage of the foreshore and seabed issue over a three month period in 2003 to have generally met standards; that balance was generally achieved within items; that over the period of current interest balance was achieved. But the report's executive summary states that coverage as a whole did not adequately

reflect Māori realities and concerns. So on the whole the coverage did, but on the other hand, and more importantly for Māori, the realities and concerns were not covered, or not allowed to be expressed. The report detailed unfair characterisation of Māori as activists and protesters who engaged in violent, threatening behaviour consistent with the 'good Māori, mad, bad Māori' and 'stirrer' stereotypes. These perceptions were descriptions repeated in *Morning Report* and *Checkpoint*. The underlying causes of Māori dissatisfaction were not explained, in contrast to the 'logical', 'rational' Pākehā participants who were described as 'lobbyists and staunch critics'.

Reports like *Te Ao Māori* show that the framework of the standards model is essentially sound. That all men, women and children regardless of race, colour or creed are viewed as equal but treated unequally. The mad, bad activist Māori versus the rational, logical Pākehā. The interpretation of the standards can and is dictated by a majority shareholder and in this case it's the Pākehā media. Their interpretation does not take into account the world view of Māori, the holistic view that our present and future is rooted in our past, that our spirituality is all-encompassing.

The foreshore and seabed issue accentuated the absence of the Māori point-of-view. What we got instead was Māori having to quell a Pākehā frenzy fuelled by Pākehā media. No, Māori were not going to kick Sunday barbecuers off the beach. And when swimming close to shore, yes, you can put your feet down. These petty concerns allowed the issue to further polarise this nation.

The Māori point-of-view is not, and should never be allowed to be, a reaction to Pākehā frenzy. The Māori point of view is based on traditional ideologies of whānau, hapu and iwi, and what affects them. The Māori point of view is also based on a contemporary belief structure influenced in part by the language renaissance. And the Māori point-of-view is also based on Māori economic development.

The foreshore and seabed issue came about as a result of the Marlborough District Council's multiple rejections of Te Tau Ihu's applications for agri-fishing licences. Media reports focused less on the initial issue of concern, and it was Māori, that Māori economic development was being stymied by a council who could not and would not justify its refusal of a licence. The Māori point of concern became lost in the media's attempt to get a response and a reaction to a Pākehā point of view.

It is not the standards *per se* that allow Māori to be criticised and misrepresented, but rather the interpretation of relevant points. What is balance? What is fairness? What is accuracy? Does media practice the 'two equally opposing forces' definition to reach balance? Or do they practice validation of majority culture ideology? – the getting of an opposing viewpoint to validate an already accepted ideology. Fairness. Does media practice even-handedness when dealing with Māori? Is the Māori worldview defined according to the BSA? No, even though the coverage over a three month period in 2003 was deemed balanced, it did not reflect the Māori reality.

It is true that Māori cover news differently from Pākehā. Talent are allowed to speak longer. Māori news organisations allow the worldview to emerge. Māori reporters on mainstream channels pay the price for being the mouthpiece for Māori. Educating their establishment while bringing the Māori viewpoint to prime time is a balancing act, and at times a lonely place to be.

At the end of the day, what standards we have here in Aotearoa should be robust, universal, and singular, and allow both signatories to the Treaty of Waitangi to foster their opposing views. It is not that standards are rigid and narrow, but rather the interpretation is defined according to the majority ideology which has little room for dissenting views. The original intent of the standards, just like the original intent of the Treaty of Waitangi, safeguards Māori and its ideologies as much as it does Pākehā. Kia ora.

Tapu Misa
Thank you, Claudette. Our next speaker is Hone Edwards who has been Kaihautu to TVNZ since late 2003, which means he's the guy who tells TVNZ where to paddle and how fast on Māori content and programming. He has more than twenty years of experience, according to my Google search, as a reporter, presenter, director, producer and editor in both mainstream and Māori programming.

Hone Edwards
Thank you, Tapu. Actually Tapu stole my thunder. I was going to use some of the examples from this wonderful research they all did, and she has sort of come up and burst my bubble.

However, I think we all agree basically that the concept of balance is a Pākehā one. The late Maori Marsden, a northern elder, once said 'My approach to Māori things is largely subjective. The charge of lacking objectivity does not concern me. The so-called objectivity some insist on is largely a form of arid abstraction, a model or a map. I am concerned only with viewing attitudes from within the culture'. And I think that kind of sums it up for most Māori. We all watch news stories about Māori, and they are accurate nine times out of ten and relatively fair, but as a viewer I always have that knot in my gut thinking, culturally, there's something not quite right about this story, and I can never put my finger on it until I go away and mull it over in my head.

So to clarify some of those examples, what I did do, which Tapu didn't go into, lucky for me, was to go over some of the examples that did appear in the report that the BSA commissioned looking at the way broadcasting covered the foreshore and seabed issues.

Bear in mind that this all happened in 2003 and the research period was from June to September. On June 19 in 2003 the Court of Appeal had brought down a judgment saying Māori could go to the Land Court and have their claims to customary rights of the seabed and foreshore heard. Within two days the Prime Minister indicated that

Government would legislate to prevent this from happening. For Māori, this was seen as a breach of Māori property rights and a further erosion of cultural values. I think for Pākehā and the Government the foreshore was an important public domain to be protected for all New Zealanders.

These events were followed by a series of consultation hui around the country between the Government and Māori, and nine times out of ten the hui were reduced to four hours of dialogue which was never seen to be enough. There was a lot of emotion and a lot of heat around the response and the reaction that Māori had to what the Government was proposing to do.

But going back to the coverage, and the way that it was worded by journalists (often mainstream) – they used the term 'veteran activists' for Hone Harawira and Ken Mair. Now the problem with that sort of statement is that it singles out known Māori individuals. The reporter in doing that assists the listener or the viewer to conjure up images of protesters and draw conclusions about their likely behaviour. The research claims the reporter's coverage focused on the protest element even though it was a minor part of the story on the day.

The examples go on. A chance to compare the language used for Māori and non Māori arose in a later radio report when Bruce Mason, a Pākehā from Public Access New Zealand, was described not as a 'veteran activist' but as a staunch critic of Māori claims for the foreshore and seabed. The research contests that the use of this description had fewer negative connotations than 'activist' or 'protester' – terms usually reserved for Māori protagonists.

The term 'staunch critic' suggests an intellectual element to the action. It is more conservative, less confrontational. It's kind of easy to take, rather than the 'activist' labels reserved for Māori. Therefore, an inequitable use of descriptive language in two reports can be construed as divisive and unfair in its connotations. And I could go on and on and on.

What I want to address is whether or not our broadcasting codes are adequate – do they protect Māori, the Māori values, Māori rights, Māori interests? And my take on this is that no they don't. While I think the broadcasting codes are important for Maori broadcasters – without them you will have measures of imbalance, measures of unfairness and measures of inaccuracy creeping in where journalists or editors have personal agendas. Since I've been at TVNZ as the Kaihautu, and when I was running *Te Karere*, I saw that temptation coming through from journalists, Māori journalists, as we were starting to develop the whole concept around how we cover Māori stories, so I think that broadcasting codes are really important.

Having said that, I don't think there is a measure in them that really does protect Māori values. As Claudette said, it is a Pākehā construct, a Pākehā concept. We are trying to squeeze a round peg into a square hole when we apply the measures to Māori stories because they don't weigh up the Māori values in those stories.

Where you have controversial stories involving Māori that are important to the public, then they should be able to be measured. They're either important or they're not important, very important or extremely important, and going hand-in-hand with the importance to the public is a measurement of public value. What is the public value behind the way that we cover stories? What is the set of criteria that we could use to measure the public importance and therefore the public value of stories?

The Ministry for Culture and Heritage came out with a model that discussed three sets of values. They talk about the 'democratic value' of stories – stories that might inspire us to want to engage in debate, stories that might inspire us into voting for a party that meets our political aspirations and our political needs; the 'educational value' of a programme, whereby we learn about each other and the diversity of cultures in New Zealand; or about the 'entertainment' value. We may sit down to watch something that is a drama, it's entertaining,

but at the end of the day there is an underlying message there. We come away with a sense of having learnt something. These are the sets of criteria that we may be able to use in order to measure what that public value is.

If there is a public value that can be used to measure our broadcasting codes, then there must be a Māori value as well that looks at those particular areas. It's important that we have these measures in place because there are issues for Māori people, issues that are important to us on a daily basis. We need a vehicle to be able to respond to those issues.

But there is a much bigger value here, and that is the value of being able to take those issues to a mainstream audience. On that note, I can conveniently hand over to Willie, because that's what he does.

Willie Jackson
Kia ora tatou.

In thinking about ' balance', I did some preparation for today. I listened to some of our broadcasters' views during the election: Dover Samuels said on Radio Waatea 'over his dead body' would he move aside for Hone Harawira in the last election; and Titewhai Harawira said on her show in response, 'What a brilliant idea, why don't you do us all a favour and die so that my son Hone can get in'. Syd Jackson said before the election, 'John Tamihere, you are a sellout and Pita Sharples is going to smash you'; and Titewhai again: 'Helen is nothing but a racist and Don Brash may as well join the Ku Klux Klan'. So are those examples of balance?

I'm just trying to put these examples into context in terms of the day and what we've talked about – but I totally agree with what Hone and Claudette are saying. I think it is balance, you see, and I know that a lot of Pākehā here would think 'oh, that's just disgusting, those Māori are out of control', and yes, sometimes they are out of control, but there is a view that pervades on Māori radio and on many of our iwi

stations around the motu, that why the hell should we be balanced? Why should we be balanced when there has been this imbalance for so long?

So, the election time came around, the Māori Party appeared on the scene, and all the iwi stations jumped on the bandwagon. And were they unbalanced? Hell yeah. But I think that we have to understand why, why that position happened. For many, many years they have seen how mainstream radio has mistreated Māori stories. Time and time again a Māori perspective has come out the wrong way. Why? Because they don't have Māori reporters on staff, or they have Pākehā reporters who don't give a stuff, and it has just infuriated so many of our people for so many years. And then the iwi network appeared and it was an opportunity to get utu.

Now I don't for one minute condone the iwi network extracting utu on mainstream media, but I completely understand the mindset of iwi radio, and the reason why this happened. The iwi network, in many ways, is under-resourced, although Hone Harawira will tell you, 'no, it's got plenty of resources'. It has in terms of people. It hasn't in terms of money. There are only three or four workers sometimes, or kaumatua, running the station; and they run it with a passion, and with their heart, and they remember what's happened to our people and how our people have been mistreated by mainstream. Now I'm not saying that that's not changing because I think it is changing, but it's a very, very slow process and Māori want those changes to be happening now.

I was interviewed by Linda Clark during the election and she said 'do you think Māori radio is biased, Willie?' This was her big question, and I said 'about as biased as your station, National Radio, Linda'. Although I do like National Radio because they take the Waatea news. [Laughter] The point is that Pākehā mainstream radio cannot kid itself in terms of its treatment of our stories over the years. There has been a bias against Māori as well as our language continues to be mispronounced.

National Radio makes an effort to change this but other stations see it as a bit of a joke.

At Waatea we have national contracts so we have national obligations. We put out national Māori language news and we put out national news in English. I have probably some of the best Māori language journalists in the country and have also acquired a couple of top journalists for our Māori news in English. The national contractual obligations require us to be continually accountable and careful in how we present the Māori perspective. I think mainstream has a lot to answer for in terms of the editorial side. The editorial side of stories is always shaped by Pākehā journalists who don't have any understanding of things Māori … Constantly when I go to a mainstream organization I'm having to basically teach the journalists about what's happening in te ao Māori. And it's frustrating. It's irritating that you have to actually spell out to them what's going on and who is who in Maoridom.

There is so much that needs to be done in that area in terms of things Māori. It's not just about a Māori face; it's about getting the Māori story out there.

So how do we do that? We have to put some time into it. As Claudette said, you look at Television New Zealand (who are pretty good, of course, because they've got *Eye to Eye*) – Māori journalists come and go all the time through those organizations and the support systems are not put in place so that the Māori story is told. We on Māori radio are watching that all the time, and that really leads to a hell of a lot of frustration and resentment, and I think that's something that we have to manage – people like myself, Hone, Claudette, Jim Mather over there, and Tawini at Māori TV.

Our people come to us with all these frustrations. They have resentment many times against mainstream, and Māori Television has picked up a number of mainstream reporters. I just think that we have to get the overall model right so we can get the balance right. That's what I really

believe, and so is there a question in terms of balance on Māori radio? Of course there is. Did Hone Harawira misuse his radio station during the election? Of course he did because he's seen what has happened in terms of mainstream media. But it's a big jigsaw puzzle and everybody has to do their job, and I think that it's got to be led in many ways by mainstream who have more resources, who sort of throw a few crumbs at the problem sometimes but don't address the overall problem in terms of the Māori story that needs to come through from mainstream. I don't think we should always rely on Māori radio and Māori TV to tell the Maori story. Mainstream media also have obligations that they haven't fulfilled.

So I just want you to consider that view, and I am happy to take questions on the kaupapa. Kia ora tatou.

Tapu Misa
Kia ora. Does anyone have questions for the panel?

Unidentified speaker
Just as a matter of interest, does the Authority receive many complaints from Māori about lack of balance?

Tapu Misa
We don't track Māori complainants as such. When people complain we don't ask them what their ethnicity is, but from what we gather very few complaints come from Māori, and very few on the balance aspect. For the 2004/2005 year we had about five percent of complainants concerned about Māori issues. That involved people complaining about Māori programmes or about programmes that canvassed Māori issues. Some complaining about such world-shaking issues as having buttocks on at children's normally accepted viewing times. So not very many. But that raises a question, whether you could say that if Māori aren't happy with the coverage is it the process of complaining that's a barrier? Obviously there is some unhappiness out there, but we don't see it in complaints.

Tawini Rangihau
We very rarely get written letters of complaint but when we do it's sort of 'yay, somebody's watching the programme'. We actually welcome a bit of constructive feedback. But I don't disagree with my cousin Willie about doing away with the Authority because my fear is that as we're evolving as a Māori broadcasting organisation, we face the same dilemma mainstream has had for years in terms of misrepresenting, or not getting the balanced view. I make particular reference to a relative of mine who was publicly slated on an iwi radio station and not given the right of response. I don't want us to go dicking over our own people as we evolve, so I do think there is a place for an Authority. The make up, and how it actually deals with Māori issues, needs to be delved into more comprehensively in terms of having context and all that jazz.

Keith Slater
I wondered whether the panel would want to see specific codes drawn up by the BSA and enforced by the BSA, to redress some of the inadequacies of mainstream media. If so, what do you think the chances are?

Claudette Hauiti
They [the codes] need to be looked at to make sure they are all-encompassing of both Pākehā and Māori viewpoints. It's not a one-size-fits-all, which is what the standards appear to be at the moment. Because our nation is changing, the standards need to change to keep up with that. Māori are an intrinsic part of this nation and the standards need to reflect that – New Zealand/Aotearoa standards, as opposed to what they are now which is probably, in its essence, in its original state.

Keith Slater
Would you want to see specific codes relating to Māori issues?

Claudette Hauiti
Hone and Willie will be able to give their viewpoints. My viewpoint is that it should not be an us and them. An us and you. Your Pākehā

perception of balance and fairness is exactly how we see it. Our core values are very similar. It is not an us and you, it's a we.

Clare Bradley (CanWest MediaWorks)
So what in particular about the codes should be changed?

Claudette Hauiti
If you came to the BSA hui a couple of years ago where we talked about privacy and consent, I talked about Pākehā law, L A W, versus Māori L O R E. If we look at broadening the concept and interpretation to include some of the aspects of Maori lore, L O R E, and they become entrenched in Pākehā law where currently they are not understood or not fleshed out well enough or deeply enough to be acted upon.

Willie Jackson
I just wonder, in terms of the broadcasting standards, the sort of teeth that the Authority really has, because I don't know if it has a lot. The reality is that the most high-profile of broadcasters in this country can say whatever they like. You only have to look at Holmes who talked about Kofi Annan – I think he called him 'an uppity darkie'; Leighton Smith who talked about Mohammed Ali as a 'stuck-up nigger'; and Tony Veitch who on Radio Sport calls the Williams sisters 'golliwogs'. That's why Māori think, look at all that! Look at all that stuff happening from these heavyweight broadcasters – and we'll say whatever we like too. There's a real problem there in terms of enforcing anything.

Clare Bradley
But all of those statement led to upholds of breaches of the standards, either by the broadcaster themselves or by the Authority, didn't they?

Willie Jackson
Yeah, but their ratings just keep going up. You can just say, 'yes, oh you breached that', 'oh okay, sorry', and the next minute their ratings go up in Auckland. I'm not trying to have a go at the standards, I wonder sometimes about the processes, whether they're enough.

Joanne Morris (BSA)
Can I leap in there? The Authority is reactive. It reacts to complaints. If there was a complaint about lack of balance, and the Authority said, for example, 'yes, they didn't seek out a Māori viewpoint, or the proper Māori viewpoint, or enough Māori viewpoints', that's something we could do, but we don't get the complaints to generate that.

But this morning the Minister raised a question which I thought was really interesting – whether the Authority should take some sort of an ombudsman role, and at the end of a year we could publish our views on how broadcasters had gone each year in a particular area. It seems to me this might be an area that's ripe for this because if the complaints don't come in, we sit there. I suspect there will be howls about this, but I'll say it – to do an assessment of how issues have been covered in Māori terms, or how Māori perceived issues had been covered in the media that year, and track it from year to year.

Maybe it's not the Authority's job, maybe it's somebody else's job to take that sort of role on? Anyway, I throw that in.

Hone Edwards
Joanne, whoever ends up with the job, whether it's you guys or whoever, I think it's back to the question that came from the back … what set of criteria are you going to use to measure Māori values? Willie has talked about the frustration that a lot of Māori do have, and maybe they're not actually tabling their concerns, but at the end of the day I understand what Willie is saying about the frustration that Māori have. But I still think we need those standards, otherwise it's going to be a free-for-all of 'you did it, and so therefore I'm going to go out and do it, and I'm going to get a whole lot of votes, and I'm going to do it on my channel' – and it runs awry. It would be really interesting to see if we can have an ongoing discussion of just how adequate the broadcasting codes are in evaluating what is important to Māori. Find a way of being able to measure it and I believe it's definitely in

it's public value and it's public worth because if a controversial story involving Māori is important to the public, then there must be a public value to it. And if that's the case, there must be a Māori value to it. We just have to sit down and work out what those values are.

Mark Sainsbury
Can I just ask the panel, in terms of the issues of how things Māori are portrayed, and attitudes by the mainstream organisations, do you see it as a systemic sort of problem, or is it a recruitment problem?

Claudette Hauiti
Recruitment is part of 'systemic problem' isn't it?

Mark Sainsbury
So do you think it's the attitude of the organisations for a start that is the major problem? They're not willing to do anything about it?

Claudette Hauiti
Yes, I've actually stated that it is. It's in the interpretation of the Pākehā media that we come unstuck. I think that the basis of the standards is adequate. I think then it goes into the interpretation by the Pākehā media, and that's where we fall down.

Hone Edwards
There needs to be that will in the newsroom to grow Māori journalists. We can't find them on the outside. My discussions that I have at TVNZ are around the whole notion of growing Māori journalists inside the mainstream newsroom, or the situation that we have now will continue. The flipside to that is to educate mainstream journalists about how to cover Māori stories, but that's a pretty hard one.

Mark Sainsbury
Shouldn't all journalists have enough of an understanding about Māori issues to be able to look at them in a broader way?

Willie Jackson
Yeah, but you know that most of them don't.

Mark Sainsbury
But as a matter of principle. Shouldn't that be what we are striving for?

Willie Jackson
Yes, that's right.

Claudette Hauiti
In the report [*Portrayal of Māori and Te Ao Māori*] it says that there were Pākehā reporters who were very sympathetic and empathetic to Māori, and covered the story with balance and fairness. I agree with that. I also agree with Willie. It happens mainly in radio at the moment, that there are some Māori reporters who have wonderful te reo, but I question their journalistic perspective in that the balance and fairness is lost in our desire to get our language on air. The story, the right story, the balanced story, is often lost because we're listening to the beautiful language.

Willie Jackson
The excuse I always hear from the main organisations is 'oh we can't get the Māori journalist', but what I always say is you've got to play an active part in actually finding these journalists and making things attractive for them – because many of the journalists they do find, they're on their own. Hone's been there. Tawini's been there. Claudette's been there. There's one or two of them and there's 20, 30 Pākehā, and they think 'I'm going to go to the Māori TV channel'. They feel more comfortable there. Mainstream has to take more responsibility in terms of bringing Māori journalists in. It can't just be left to the brother over there – 'oh that's Hone's job'. I think that you Mark, you need to play a role, and other senior people need to play a role rather than say 'oh we'll leave it to Hone and them on the Māori side'. I don't think that there is a comprehensive or cohesive strategy that is happening.

Tawini Rangihau
Before television and radio, there was the marae out there. And our view of balance is we had the right of redress. However long it took to get that right of redress, whether we spoke into the long wee, wee hours of the morning, that debate carried on until all points of view had been expressed. Now what is missing in media, in all forms of media, is the ability to be able to translate that into a public arena. Because the Māori view of balance is, 'I have my right of redress at any time'. Whether the comment was made ten years ago, or yesterday, I have my right of redress. Now, when you have a culture that believes that, that is ingrained in our way of life and our world view, then think about the frustration that some of us feel when there is no Māori world view expressed in media, and this is not just Pākehā media, this is all forms of media.

Tapu Misa
Kia ora. I would love to hear more, all of us would. But we'll take one more question, and then we have to wrap it up.

Robert Taylor
Kia ora katoa. It's probably just going on from what Tawini said, how long in your mind, how long does this process of restoring the balance go on for? Because I'm coming to grips as an emerging doco maker with this word inclusive. If we're pitching something to the mainstream broadcasters you hear that it needs to be inclusive. Now for me, I go back on to what you said … If I'm going to tell our stories from our perspective should I really need to be thinking about making it inclusive and providing balance from another person's point of view?

Willie Jackson
Kia ora. I'm not sure how long it goes on for. I know the view out there in terms of Māori radio. The reality is we have to be responsible. We try to be very responsible at Waatea. I know Claudette and them do too. But I understand what's happening out there. But we have a

responsibility to temper things with some of our broadcasters, with some of our journalists, and otherwise the reality is that the kaupapa won't go forward because it's not acceptable; and I did go over things with my Uncle Syd and Titewhai – it's not acceptable that they put that view, even though they might be emotional. I understand why they put that view, but it's not appropriate. People who are in positions like ourselves have a responsibility to say it's not right. It doesn't matter what's happened, the kaupapa will never advance while we continue to put that type of view. We have to lead the way. You'll always have that view coming forward from our people because there's still a lot of resentment there, but we've got to move on.

Hone Edwards
I think there's also a larger issue here. First of all, knowing who your audience is and who you're making it for. So if you're making it for a Māori audience, okay, you will tailor your documentary to take into account the type of balance and accuracy and fairness that would be applied on the marae, or applied anywhere for the Māori psyche. But I think the bigger issue here is about reaching an identity in and around who we feel we are as New Zealanders, and who we want to be, and I think in that area we have to be able to balance it out across the board because we all can learn a lot from each other. But we won't learn if it's not balanced and it's not fair.

Willie Jackson
The main thing that has to pervade sometimes is fairness. You might have seen *Eye to Eye* – I'm not particularly balanced on that show, but what I always try to be is fair. I think fairness is really, really important and I think that's what's got to come through in the end.

Tapu Misa
Do I take from all this that you think the standards are adequate, but it's their interpretation that you have issues with?

Claudette Hauiti
Yes.

Tapu Misa
What do you think will help with it?

Claudette Hauiti
We are not going to get very far if it's going be an 'us and you' thing or we're going to have a Māori perspective jammed into the BSA as an addendum. I think it needs to be a consultative process, and I'm not saying hui forever and a day, but that the Pākehā view isn't that far from the Māori world view. It should encompass the nation – an understanding and interpretation of standards that's all-encompassing of Pākehā and Māori. So I suppose it goes back to a consultative process. Yes, it would help if you had more Māori on the BSA, but it would help more if your one or two Māori on the board had a framework that is all-encompassing as opposed to an addendum. I hope that's clear.

Tapu Misa
And on that note we'll say kia ora.

THE BALANCING ACT: WHAT THE BSA HAS SAID. ANALYSIS OF 10 YEARS OF DECISIONS

John Sneyd, Complaints Manager, Broadcasting Standards Authority

Introduction

Of all the broadcasting standards, balance is the one that gives rise to the most difficult issues, both for broadcasters and for the BSA in its role as the quasi-judicial body tasked with interpreting the standards.

While the title of my paper has been promoted as being a 10-year retrospective view of the way in which the Authority has approached the balance standard, the reality is that my focus is much narrower. This is for two reasons.

First, the wording of the balance standard materially changed from the start of 2002. While before this the standard referred to the requirement to 'show balance, impartiality and fairness in dealing with … all questions of a controversial nature', the standard now demands that 'when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view'.

Secondly, and this probably is a direct consequence of the change mentioned in the first point, since 2002 the Authority's approach to the interpretation of the balance standard has become more focused and consistent. This is perhaps largely the result of the change to a dedicated standard that details more clearly the elements of the balance standard, ie there must be a controversial issue of public importance, and broadcasters must make reasonable efforts to present significant points of view on that issue.

Despite the more specific wording of the 2002 standard, it still provides little interpretative guidance as to the way that balance might be achieved. The guidelines to the standard do provide some additional guidance, but there is still little in terms of developing a detailed understanding of the requirements of the balance standard. It

is therefore up to the BSA to provide the framework around the bare bones of the standard, to put the flesh on the skeleton provided by the Act and Codes.

There is still some way to go before the skeleton is fully fleshed out, but over the last few years in particular, the decisions of the Authority have begun to really establish a much more concrete framework around the application – and just as importantly, the limitations – of the balance standard.

There are four points in particular that I wish to cover in this paper:

- First, briefly, the definition the BSA has applied to the first limb of the balance test – the controversial issue of public importance.
- Second, the overlap between fairness and balance.
- Third, the application of the standard to programmes that approach an issue from a single perspective.
- Finally, a brief wrap up of some of the other themes emerging from the BSA's decisions about balance.

Controversial issue of public importance

I intend to deal with this issue only briefly, as a panel discussion has focused on this issue. Nevertheless, it is worth my briefly mentioning it, because two recent decisions have clarified the BSA's approach.

Some programmes clearly discuss a controversial issue of public importance – a discussion on the foreshore and seabed legislation, a current affairs item on battery hen farming, or a programme debating the proposed civil union legislation. Others clearly do not – a discussion on the Duke of Edinburgh's birthday, a radio interview with Steve Crowe about his latest porn video releases, or a programme in which various experts offer their views on why Michael Jackson is obsessed with young friends, chimpanzees and merry-go-rounds. But there is a huge middle ground, where the decisions are not so obvious.

In the Michael Jackson decision,[14] however, the BSA stated what it saw as the means to assess whether a programme does discuss such an issue. It stated that a controversial issue of public importance is one that is of 'significant potential impact' on the New Zealand public'. Unsurprisingly, Michael Jackson's endless oddities fell outside of that test, and the balance complaint from an aggrieved Jackson fan from Dunedin failed.

In a subsequent decision, the BSA framed the test as whether the issue is of 'significant potential impact on, or of concern to, the New Zealand public'.

The BSA has not limited the requirement for balance to programmes about specifically New Zealand issues. Clearly there are issues that, while they have limited direct impact on most New Zealanders, are of concern, and attract strongly held and polarised views; the Palestinian situation is one such example. It is likely that the BSA will find that this type of issue is both controversial and of public importance.

Fairness v balance

Current affairs and factual programmes tell stories. They tackle controversial issues by examining specific examples that exemplify the issue under discussion; the flip side of the coin is that short news items can also reflect a much wider controversial issue behind the case discussed in the individual item. The end result is that news and current affairs inevitably tell a story, as well as reflecting or examining a controversial issue.

Many complainants who cite balance are largely unconcerned about the way that the different perspectives on the controversial issue under discussion have been discussed. Instead, their concerns are often

[14] BSA decision no. 2005-075

about how, in telling the story, the programme has misrepresented them, their views, or their actions. For example:

- In an item examining substandard tertiary courses in New Zealand, one particular provider was concerned at the way it had been portrayed.[15]
- An immigration consultant complained about the way they were shown responding to a client's complaints in an item about shonky consultants in New Zealand.[16]
- A major retailer was concerned about the way it was portrayed in an item about the flammability of its pyjamas.[17]

In each of these cases, the programme highlighted an important issue – bad eggs in the immigration industry, people getting ripped off by tertiary courses, consumer safety. In each case, however, the complainants did not complain that there had been insufficient discussion of the general issue. Their concern was instead that they had been unfairly portrayed. They had been made to look greedy and grasping. They had been made to look incompetent and over-promising. They had been made to look uncaring and unresponsive to safety concerns.

Faced with these concerns, the BSA has consistently declined to examine the balance complaint in any level of detail, and has instead focused its determination on the more relevant issue of whether the complainant was fairly portrayed.

Examination of balance is generally reserved for those complaints that really do attack the handling of the issue, rather than the portrayal of the people involved – a trucking industry group that complains about

[15] BSA decision no. 2004-204

[16] BSA decision no. 2004-145

[17] BSA decision no. 2004-202

a programme investigating safety concerns in the industry, a Big Game Anglers organisation complaining about a programme alleging that fish feel pain.

Single perspective journalism

There is an inescapable tension between, on the one hand, the requirements of the Broadcasting Act and the Codes regarding balance, and, on the other, section 14 of the New Zealand Bill of Rights Act 1990, which codifies New Zealanders' rights to free expression. Nowhere is this tension more apparent than in the situation of the authorial documentary, or other factual programmes that approach a controversial issue from a single perspective.

It is the very essence of free speech in a Western democracy that people can opine on whatever subject they choose. Free speech means you can have your view, and you can tell others of that view. You are allowed to be blind to reason. You are allowed to be stupid. You are even allowed to be wrong.

But in the Broadcasting Act, and in the Codes, you are told that should you wish to broadcast such a view, these views require balance from other competing perspectives. This would seem to be a fundamental contradiction of the right to free speech.

This tension is, in part, resolved by the addition of guideline 4c to the free to air TV code, which states that:

> Factual programmes, and programmes shown which approach a topic from a particular or personal perspective (for example, authorial documentaries and those shown on access television), may not be required to observe to the letter the requirements of standard 4.

The Radio Code also appears to go down this track, but less forthrightly:

> 4a Broadcasters will respect the rights of individuals to express their own opinions.

It is appropriate and indeed essential that the codes recognise the importance of free speech through provisions that allow for programme makers to broadcast their opinion. But the standards provide little practical guidance for programme makers about what, if any, guidelines they must follow to bring authorial or single-perspective programmes within the ambit of the broadcasting codes. Helpfully, a significant body of decisions over recent years is now clarifying the BSA's interpretation of the balance requirement.

One of the first decisions that tried to tackle the question of the latitude to be given to authorial programmes comes from 2001 when the BSA received a complaint about a documentary that examined the 1951 waterfront dispute. The programme consisted mainly of the personal recollections of some of the watersiders involved. The complainant was concerned that the programme had neglected to address the view that the watersiders' actions had been damaging both to the country's economy and to the union movement.

The BSA considered the complaint under the old balance standard, which made no acknowledgement of broadcasters' rights to offer such authorial perspectives. Despite this, the BSA concluded that viewers had been clearly informed that the programme intended to look at the strike through the eyes of the union leaders; it made no pretence of being an objective or wide-ranging examination of the dispute. The BSA concluded that so long as a programme's editorial approach is made clear, it does not breach the balance standard.[18]

[18] BSA decision no. 2001-126

Over the last two years, further decisions have refined this principle. It is fair to say that the principle now adopted by the BSA under the 2002 Code is perhaps not as broad as that stated in that 2001 decision, and there are now three elements that the BSA will look at in considering this issue.

These elements have been established in three recent decisions:

- An authorial documentary arguing that Scott Watson did not commit the Sounds murders. The complainant was a witness who was concerned that the weighty evidence against Scott Watson had been ignored.[19]
- A radio interview with a grandmother who strongly advocated against prescribing Ritalin to children. The complainant was a professor of child psychiatry who considered that the non-expert views of the interviewee should have been tempered by expert views in support of the drug.[20]
- A current affairs programme exploring the hypothesis that the place of the haka in Māori society was a contributing factor to high Māori crime statistics. The complainant was aggrieved that positive effects of Māori culture on youth had been ignored.[21]

None of these complaints was upheld. In each case, the BSA recognised that the programme had approached the controversial issue under discussion from a single perspective, and had never purported to examine generally the wider issue. The director/presenter made it clear that the programme was his personal view on the Scott Watson trial; the grandmother was not presented as a medical expert offering a medical analysis of the benefits and detriments; and the programme was clear that the views on Māori crime were the personal perspectives of the interviewees about a much wider issue.

[19] BSA decision no. 2004-127A

[20] BSA decision no. 2004-132

[21] BSA decision no. 2005-057

Three important principles emerge from these cases:

First, the principle, stated in the watersiders' case, that programmes have to clearly signal that they are approaching an issue from a particular perspective, or are offering one particular opinion. So long as a programme is honest with its audience about what it is trying to achieve, that will be a significant factor.

Second, the programme must at least acknowledge that there exist other perspectives on the issue. Depending on the circumstances, it may not be necessary to canvass those competing views in any level of detail, but an acknowledgement that they exist is significant.

Finally, it is relevant if a programme makes an incremental contribution to a well-debated and discussed issue. In each of the three cases above, the wider issue explored by the programme had been the subject of much debate over a number of years, and the programme simply added another voice to that debate.

The BSA is likely to be more demanding of programmes that purport to be an objective examination of an issue but which fail to present a key perspective or point of view. An example of this is a documentary that investigated the cause of a plane crash which had killed all the passengers. The documentary thoroughly canvassed the question of whether the crash was the result of pilot suicide, but failed to mention that there was an alternative and credible theory to the effect that the crash was the result of mechanical failure. The BSA upheld that complaint.[22]

Other factors the BSA is likely to consider

Several other themes emerge from a review of the BSA's recent decisions. It is likely that the BSA will continue to take the following matters into account when assessing complaints alleging a lack of balance.

[22] BSA decision no. 2004-151

Personal stories

Personal stories may not require balance. In many cases, an individual's story may reflect or exemplify a controversial issue, but the BSA has held on a number of occasions that programmes focusing on that individual and their experiences may not require balance.

An interesting example of such a decision involves a documentary telling the story of several gay men who were attempting to 'cure' themselves of homosexuality through a Christian programme. The AIDS foundation and the campaign for Human Rights complained, saying that the programme was unbalanced as it had ignored the views of the gay community who viewed their sexuality very differently.

A majority of the BSA declined to uphold the complaint, saying that the programme clearly focused only on the experiences of the men featured, and did not purport to be a wide-ranging debate about homosexuality in general.[23]

A further recent example concerns a documentary relating the experiences of five people who had left the Exclusive Brethren. Again, the BSA noted that the programme recounted the personal stories of the participants, and did not require balance.[24]

Opportunity to respond

Another clear theme emerging from the BSA's decisions is that if a programme criticises a person or organisation, that person or organisation should be given the opportunity to respond.

The more serious the allegations, the greater the lengths a broadcaster will have to go to in seeking that person's input. However, the mere fact that a significant person or organisation chooses not to comment or is unavailable does not absolve broadcasters of their responsibility

[23] BSA decision no. 2000-151

[24] BSA decision no. 2005-125

to achieve balance by other means. In considering this question, the BSA may consider whether a journalist or presenter has played the devil's advocate and challenged assertions being made by one side to the debate.

Stopwatch approach not helpful

The BSA has said on a number of occasions that the stopwatch approach – meaning that competing viewpoints are given equal time in a programme – is not a helpful means by which to assess balance. The key issue is whether participants are afforded a reasonable opportunity to convey their views, and whether the way in which the programme has been put together has clearly conveyed those views. In many cases participants are able to firmly convey their perspective on an issue in a pithy manner, with a relatively brief contribution.

Not every relevant perspective must be advanced

All journalists and programme makers will be familiar with the fact that for any subject you choose to examine, there will be someone who has studied the issue, who has written on the issue, and who has made it their life's work and passion. Inevitably, these people will find fault with any programme about their niche area, as the programme will inevitably fail to address a point that they consider critical.

The BSA acknowledges that not every perspective on an issue can be addressed in a finite programme. The key thing that the BSA looks for is that a range of views has been presented, and that key perspectives are included.

Conclusion

In every case where the BSA considers that balance is required, it must make value judgements about what constitutes a 'significant' perspective, and whether these significant perspectives have been reasonably and fairly conveyed to the viewer. Each determination will be made on the facts of the individual case, and many factors such as the style, format and tone of the programme will be considered.

But while there will always be an element of value judgment about these decisions that cannot be codified in a way to achieve concrete certainty, a review of recent decisions demonstrates that the skeleton provided by the Act and Codes has been fleshed out to a large extent, and that there is now a useful body of precedent providing guidance to broadcasters and programme makers.

REFLECTIONS

Paul France, Diane Musgrave, Tapu Misa, Paul Norris

Chair: Jim Tucker

Jim Tucker
… I was sent out to a rural hall, so it must have been a National Party candidate I guess, and before I went I was told 'he gets six inches' [of column space]. So in the hall was the candidate, his mother, the secretary, and me. I furiously wrote down the first six inches of what he said, and as I was leaving he said 'I haven't got to the good bits yet, you're going too soon'. I said, 'sorry mate, you got your six inches'. So I'm really pleased that we've moved away from that. Today we've got a long way from stopwatch journalism.

One thing that we haven't discussed, though, is that we've kind of lumped everything together – there's a great difference between genres. News has quite different pressures and requirements from documentary. I guess with documentary, like feature-writing, you should have a bit more time to sit back and discover a bit more about the topic and take a view; and talkback is different again. But we seem to be talking about this thing balance applying to all of those, and I think that's dangerous.

Anyway, that's enough from me. I'll just ask each of the people here to give us a brief summary of what they think. Perhaps the BSA might like to give us some views about what it's been told today, because the messages have come through quite strongly I think. Diane, do you want to start?

Diane Musgrave
There is a strong feeling from the broadcasters here today that perhaps the BSA shouldn't exist. I'm not sure that the public agrees with them. I think that the public feel that they have a right to complain, and they want to be able to complain to a body that has been set up that is not the broadcaster. That is the BSA's purpose at the moment – for

the public to have their say. That's how I see our role, somewhere the public can vent their anger, frustration, rage or whatever.

But there were some common themes coming out today, one was honesty to the audience – to be truthful and fair to the audience that you're talking to. To achieve that honesty or truth, you have to provide the information that gives the big picture. The big picture embraces the Māori view, the minority view, etc. That way, trust is built with the broadcaster, and the commercial side of the business succeeds because if the audience feels that they trust the broadcaster they stay switched in.

Honesty with the audience applies to talkback, and to single-perspective documentary. As long as documentary makers are upfront with the perspective they're coming from – if they're being honest with their audience, they shouldn't be misunderstood or misinterpreted.

Honesty with the audience applies to news and current affairs. I think that journalists bring with them their own ethical standards that they're trying to achieve all the time of being fair and accurate. Balance is just respecting the audience. Respecting the audience's right to all the information. And the right of redress, the opportunity to be heard. These were some of the key things that came out of the day for me.

Tapu Misa

One of the things that has come out of the day for me is that we tend to be caught up in the semantics of the word balance. The BSA talk about it not being a mathematical equation, that you don't balance one set of comments with an equal-weight opposing view. That is not what balance is.

Although we've been accused of making it up as we go along, what we're actually trying to do is interpret the balance standard in a manner that recognises that you can't judge balance in the same way always. You have to look at the nature of the issue being canvassed, the type

of programme and the intent. The BSA try to see all sides of the story in the same way that journalists have to before they present a story to the public. They have to have as much of the big picture as it's possible to get in the timeframe that they have before they put a story to air so that the audience gets as near as possible to the truth (and I know that 'truth' is a concept that is debatable).

However, I quite like the concept of 'due impartiality', one of the terms we talked about this morning. The BBC Code talks about 'due', meaning judging it by the type of issue that you're looking at – which is what we try to do. It's not that we say that there is a lesser standard of balance for little issues as opposed to big issues, but 'due' as being appropriate and adequate to the issue being canvassed. The BBC in its guidelines talks about these sorts of things.

Maybe balance is not the right word. Maybe that's something we have to look at when we're looking at the standards, is balance the right word? Maybe it is talking about impartiality, and fairness, and accuracy, and some of the things that the BBC Code talks about, such as 'respect for the truth'. Respect for the truth meaning while everything in an item might seem to be correct, unless you have all the facts, and you've presented significant points of view, then you haven't given your audience the true picture of what's going on.

It's been interesting to hear how you have reacted today. I understand how broadcasters naturally react. I would like to make the point that there are only four members on the BSA – three of them are journalists, and two of those three are broadcasters with very long experience in the business. So you have got people in the BSA who sympathise with and acknowledge the difficulties and real problems that journalists have in putting together stories and presenting them.

We measure what we have as a standard against what we expect of a broadcast, and oftentimes we aren't always in possession of all the facts, in the same way that journalists need to be in possession of all the

facts. But we all want the same thing – a high standard of journalism. We want good programming, and the truth to be out there.

Paul France
I'm the broadcasters' representative on the BSA, which doesn't mean they elect me there, but they do have an influence on it.

Tapu said a lot of the things that I wanted to say, but on the issue of the BSA and the legislation, I'm a pragmatist. You heard the Minister this morning – I don't think there is any appetite for changing the regulatory framework – but now is the time to get in and start lobbying to get some change to meet the changing world. Just saying 'let's get rid of the BSA' is not really solving the issue.

Some of the broadcasting standards are 'motherhood and apple pie' – why wouldn't you stand there with your hand on your heart saying 'I want to be accurate, I want to be fair, I want to do the right thing'. None of this is very difficult. If you looked at it from the opposite way you wouldn't say, 'I'm going to go out to be inaccurate or unfair'. Nothing very original about it. But there is a very strong commercial imperative for adopting a set of standards and standing by them because in the new environment of very fractured media sources the thing that is going to be your strongest commercial benefit is your brand. If something important is going on in New Zealand society, where am I going to go to get what I think is a balanced overview? I'm certainly not going to go to a blog. I might go to TV3 or Radio New Zealand, or I might go to CanWest if they had a news website.

So it is your brand which is really important, and now is the time to start really building on that, and adopting a set of standards and saying this is what we stand for.

I'm absolutely thrilled at how many people have come today. Whilst I sympathise with some of you in terms of the effort that has to go into dealing with complaints – and I have a lot of sympathy with you over

the vexatious and trivial ones – you've only got to look at someone like Keith Hunter who stood up and fought for that *Blade* programme. He believed in it. It was under attack, and he fought and fought and fought, and he won.

I'm often surprised at programme makers and producers and journalists who don't seem to be interested in getting in and fighting, standing up for what they've done.

I think we all know that what we're doing has a big impact on people out there and if we're willing to stand up and say we're going to do this story, then stand up behind it if you get some flak.

I'm often surprised by the sort of hard-headed approach which says 'we'll never acknowledge we were wrong'. I often wonder why, when it's as plain as a pikestaff that someone's cocked it up, you don't say 'sorry, we got it wrong'. It seems that a lot of broadcasters have great difficulty with that.

I just want to endorse what the others have said about the fact that it's the audience we're talking about. Forget about this word balance which really complicates things – I'm sure you would acknowledge that you have an obligation not to deny the audience important information. Your obligation is to make sure that they've got all the information they need to make a rational decision. You may not be able to give it to them in great detail, but at least acknowledge that some stuff is there. I, as the audience, would be really cheesed off if at the end of something I found out you hadn't told me something really important. This is what this is about. Think about it in the negative if you like, that you wouldn't stand up and say we want to be deliberately biased. You want to be fair. You want to be reasonable. You want to be impartial. You want to give diversity of opinion, which Richard was talking about. And it's really important to recognise that omission of material is as critical and as powerful a way of biasing something as putting in stuff which proposes a certain point of view.

Jim Tucker
Paul, could I ask you, do you think the word balance should be in the codes any more?

Paul France
Everybody thinks it's about giving the other person the same [time]. It's not about that. It's an obligation to the audience.

There are three constituencies that you deal with under the standards. One is New Zealand society as a whole, and we talk about protection of the children, and law and order, and don't put any more violence on, and those sort of things. There is the people that you deal with – the people who contribute to you or you talk about in your items, and they are to do with fairness largely. Fairness and privacy. And then, you get the audience, and you have obligations to the audience to give them accurate information as best as you can. (I don't like 'accuracy' by the way. I wish we'd find a better term for it.) And you have an obligation to give them all of the relevant information you can. You have an obligation to understand what the big picture is, as Di says, and even though you don't give me everything of the big picture, you're giving me the information on the basis of the context of you knowing what the big picture is and everything fits together. Does that make sense?

Jim Tucker
Thank you. Can I just ask Tapu and Di to declare themselves on the word balance. This is being totally unfair and unbalanced of me, but do you think it should go from the code?

Tapu Misa
I'd be quite happy to lose it.

Diane Musgrave
I think it's all tied in with fairness. If you're fair to your audience and fair to the subjects that you've been dealing with, it's all about fairness and fairness to your audience.

Jim Tucker
How do you feel about that, John Sneyd, having just put together a casebook on this?

John Sneyd
From an academic point of view, I'd need to analyse the situations which balance applies to. There are situations that balance applies to that fairness and accuracy don't. They are the cases where somebody is saying, 'here's an issue, and you have missed out important perspectives'. It's not a question of whether or not you've been fair to me. It's not a question of whether or not you've portrayed something accurately, but a question of 'you have to put together an objective programme, and that is not an objective programme'. That in my mind is an issue of balance.

Tapu Misa
I think we're talking about the concept stays but maybe another word.

Paul Norris
The word balance or the concept of balance is not a helpful one in terms of codes and standards. Part of the problem is, it simply means different things to different people, and that's been apparent throughout the whole day. There is absolutely no consensus about what it means in practice, and this is true for both broadcasters and the public generally. Bill Francis said balance, or the balance concept, is out of step with reality, and Tawini said that balance is not seen as important by most of the people that she hears from. So while you may wish to retain some of the concept, it could be better described. It could be subsumed under 'due impartiality' for the most part.

Fox News has a lot to answer for. Fox News 'fair and balanced' – yeah right. But partly because they have linked fairness and balance in a way which needs to be separated, as John has just said. Fairness is basically about the treatment of participants in the programme. Balance, in the

sense that it's got any meaning at all, is actually about the representation of significant points of view. These are two totally different concepts and they should not be linked together in this glib way, fairness and balance, balance and fairness. So getting rid of balance might actually help that. I think the really difficult question is looking ahead to the future, to that rich diversity of media that Richard Harman referred to earlier in the day. His argument was that because of this increasing richness of media, we don't actually need any codes at all – the market will somehow sort it all out.

Jim Tucker
Yeah, right.

Paul Norris
Yeah right, indeed. It's partly the increasing richness of media, and it's partly that there are all these different genres within media as well. Even if you look at Aljazeera , it has a news service which purports to be reasonably objective, it has current affairs programmes, and it has extremely opinionated programmes run by talkback hosts. Now how are you going to cover all of that? You're going to have to have a very sophisticated system to cover all those different genres which are represented by the broadcasters as well.

And then you've got this proliferation of channels and broadcasters and so forth, some of them occupying particular niches. Iwi radio isn't balanced, says Willie. Well of course it's not, and the question is, does it need to be in this proliferation of media? Maybe it is right that a number of different channels serving different audiences in different ways don't need to conform to codes in the same way as some of the other broadcasters do.

And this brings us on to Paul's point that in the future broadcasters will be known by their brand, shall we say. I believe that there certainly needs to be a code covering the public broadcasters, and they will be very concerned that there is, because that's part of their brand,

because they will trade upon things like due impartiality. Why is it that the BBC is so concerned about getting due impartiality right that it spends vast amounts of money on conducting the sorts of audits that Jo Morris has talked about that might be done under an enhanced brief for the BSA perhaps? Why does the BBC do this? Because its own research tells it that it enjoys the trust of the British public when it comes to news and current affairs, to a far greater extent than other broadcasters in the UK. So the trust is built upon credibility, and a reputation for due impartiality; and I think that needs to be preserved at all costs, at least for the public broadcaster.

Now, I'm not quite so sure about what should happen to all the private broadcasters. Can they be let off the leash as it were and trusted to regulate themselves through their own codes of journalistic ethics or in-house manuals or whatever? It's possible that could work in the context of where there is a strong public broadcaster that is setting general standards anyway. That's another reason for the BBC's efforts in this area, it sees itself as keeping the other broadcasters, the private broadcasters, honest. It's setting a standard, and maybe if the public broadcaster were to do that here, you could have more free rein in the private sector.

This is all very difficult territory. It is going beyond simply discussing the balance standard. It's getting into the area of regulation altogether.

Paul France
I don't think there is any political will to [go there].

Paul Norris
There may not be any political will right now, but this situation is evolving quite fast. All sorts of material is appearing on streaming sites and websites and goodness knows what else. I think the issue of regulation is going to be an issue that cannot be ignored over the next five to ten years, let's say.

Jim Tucker
I think the Minister was indicating he doesn't have a lot of heart for increasing the regulatory systems. So he's obviously looking for a lead here. Bruce Wallace and David Innes, you represent a couple of broadcaster organisations, do you intend to take this on board and get your people together to do something about it?

David Innes (Radio Broadcasters Association)
I find this a really interesting debate, Jim, because coming from an advertising world where everything's black and white or black and black, it seems to me that the sort of stuff that we do in the advertising world – you know, baked beans and ads and all that – doesn't really matter in terms of where society and democracy goes. But what has been discussed today seems to me to be fundamentally important to creating a well-informed society, and a participatory and inclusive sort of democracy.

A lot of you, as journalists, if I can lecture just a little bit, underestimate the importance of the roles that you've really got in society. I was very anxious when I heard the libertarian end of the debate this morning saying that all we need is a whole lot of silos where people can go; I did think somewhat anxiously, if the way New Zealand society functioned was by people listening to Radio Pacific or Radio Trade Union or Radio Gun Lovers or Radio Black Haters or Radio Whatever, the silo model with no constraints is in fact a very dangerous one.

This maybe somewhat career limiting, but I'm personally much more persuaded by Paul's model. Ordinary people want to know what the hell is really going on. If we drive it backwards from ordinary citizens who need to be informed, it seems to me that we haven't actually got it too far wrong.

Obviously the balance thing drives journalists crazy, because it seems to imply on the one hand you do this, on the other hand you do that, and that does seem to me to be onerous on the part of the journalist.

But if fairness means telling people what's really going on, and if we call it due impartiality, I would have thought we'd have come some distance today.

But Jim, coming back to your point, are the two major broadcasting associations actively lobbying in respect of regulation at the moment? No we're not. We are more supportive of self-regulation. We're politically realistic at the same time. What we would like to do is make sure the journalists are happy that they can get on with telling people what's really going on.

Noel Vautier (TVNZ)
Before the BSA came into being, we discussed with the government at the time whether or not we wanted to have an Authority, or whether we should be setting up an ASA-type organisation, and we felt quite strongly that it would be better to have the Authority set up by the government and go that way. I think it's worked extremely well. I agree that in time it probably will be the public broadcasters only that are obliged to comply with the BSA, but I would think it's quite likely that people like CanWest will say that we would rather opt in to the BSA, rather than having their own system because of how it would be perceived by the public. As we've said, it's very much a matter of trust, and it's perceived by the public at least that there is some external body having an oversight. I found it quite interesting this morning the Minister's comments in relation to whether the BSA could have more of a proactive rather than a reactive role, and perhaps you could even start by having more of a commentary in your annual report, Jo, on how you perceive what is happening in the industry, and the output that we do. But I think it's been a most interesting day, and on the balance question, what we have realised is that we want an unbiased news and current affairs service.

Jim Tucker
It's interesting, isn't it? In law the definition only mentions two words, fair and accurate. It doesn't go into all these other shades. So perhaps we could take a hint from that. If you're covering Parliament or Court, then the rider is that it must be fair and accurate. All these other things are just not mentioned, so perhaps it needs to be simplified. Jim Tully, what do you think?

Jim Tully (Canterbury University)
I've felt for a long time that balance has to be dumped. It's a difficult term for journalists, and it's a difficult term for the public in the sense that it encourages them to think of the metaphor of the scales, and therefore to think in terms of two points of view or an equal space or time. Those sorts of ideas are confusing to the public. If we talked in terms of accuracy, not just meaning getting names right, but seeking the best version of the truth; and honesty in terms of disclosing our perspective if we have one; or acknowledging our bias if we have one. As to fairness – I take a different view from Michael and John here because fairness to me is not just how you deal with people, but it would be fairly identifying the relevant significant viewpoints, and then fairly reporting them. So my concept of fairness doesn't run into the difficulties about 'fairness and balance' because I see it in a much broader sense. For me, a journalist who is accurate and honest and fair in that broadest sense is going to produce some good journalism, and will be seeking out that diversity of voice that came up from Richard. So I guess that's all I feel about it. Dump it.

Jim Tucker
Okay. Could I ask David Edmunds, you've been at this for years, haven't you, handling complaints for TVNZ? We haven't heard from you today. I'm just wondering if you would like to give us your feelings on the word balance?

David Edmunds
It's always been a very difficult word to work your way around. I would like one of the other words, such as objectivity. Balance is a very difficult thing to grasp and it means, as Paul said, so many different things to different people. It's a very difficult one to work with. It's not quoted that often [by complainants] nowadays. It used to be more common. The public have seen it as more a fairness and accuracy thing now than a balance thing, with the possible exception of some of the politicians.

Jim Tucker
Is anybody alarmed by the fact that Paul France says that accuracy is not one that worries him? You did say that, Paul, didn't you? Can you explain a bit further on that? You said accuracy was not one of the areas that concerned you so much. What did you mean by that?

Paul France
I don't like the word accuracy. It's too narrow and precise. I'd just like to repeat that in the next twelve months or so we're into a review of the radio and free to air TV codes, and I'm really hopeful that people will engage and we can talk about these things because I'd really like to start thinking about concepts of truthfulness and honesty, and why it irritates me when we get a complaint that has got 36 different points to it and we have no choice but to find on one them. So in the end we say that item was inaccurate, even though it's something minor. So I would really like us to spend some time with the accuracy standard and try to find some other ways of describing what we're about.

Joanne Morris
Can I just say by way of a wrap-up on this balance thing, having listened to what everybody has said, I think there is substantial agreement that we do have a semantic problem firstly – that these concepts of what people seem to be calling impartiality, accuracy, and fairness could, if properly defined, cover the range of things that we all want our

broadcast media to deliver in this area of news, current affairs and factual programmes.

I agree that at the moment the way the standards are worded, fairness is more narrowly construed than it should be, and what id currently in the balance standard, or the word, doesn't work.

But what is currently in standard four of the TV code does lend some of that idea of what we're calling impartiality, and we wouldn't want to throw out the baby with the bath water. But if we took all the headings off all the current standards and put all the ideas in a new mix and then came out with the best of the ideas differently arranged, I think we would have a good set of standards, and none of them would be called balance. The word balance wouldn't be in there because we all think it's misleading, it's confusing, and it's not helping anybody. But everybody's largely in agreement with the underlying principles.

The way of the future is obviously going to be difficult. We've got new technology. We've got viewpoints that haven't been reflected well in the mainstream media. We've got perhaps different roles, I mean the regulatory role of the BSA is perhaps becoming less relevant because of new technology. As Paul has said, the BSA in its complaints role is here for some time yet, fortunately or unfortunately, and I know there are different views on that. Whether we should have different roles, how they should be performed, those are all things for other discussions.

I'm sure I speak on behalf of my colleagues and our staff, when I say I've really enjoyed today. A couple of times I got a bit angry, but that's alright. Other people were angry too. It's great that you've given the time to come along to have this discussion – to start this dialogue. When we do review the codes, it's really important that we keep talking. These are big concepts and they're really important, not just to us, but to all of New Zealand. As we said, we've got to get it right. Let's put the thought in and get the codes right for the future. A lot of thought

has gone into them before, and it was thought that they would work. If we're going to improve, we have to really debate them in-depth. So I look forward to seeing you all in other fora where we continue this discussion in the course of reviewing the codes, and in the course of having new discussions about the future of regulation and other things affecting the whole broadcasting sector.

So thank you very much on our behalf, and I hope you can join us now for a drink and the launch of our book. Kia ora.